

6 MAY 1947

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1330	2541		Affidavit of ENOMOTO, Juji		21502
1219	2542		"Criteria in Air Fighting" by Secretary ENOMOTO, Juji dated 27 July 1937		21503
1218	2543		Observations on Aerial Bombing by Japanese Navy Department by ENOMOTO, Juji, Secretary, Navy Department, dated September 1937		21504
223	2544		Gummu Ichi Confidential: No. 409 - Communication of Information concerning the Treatment of Prisoners of War, dated 15 October 1937 from Chief of Military Affairs Bureau, Navy Ministry, Director of the 1st Division, Naval General Staff to the Chief of Staff, Third Fleet		21504
1275	2545		Gunreibu-Kimitsu No. 50 dated 21 November 1937 to Chief of Staff, China Seas Fleet, Chief of Staff, 4th Fleet, from Chief, 1st Section Naval General Staff, Chief, Military Affairs Bureau, Navy Ministry re Instruction Concerning Visit and Search and Capture of Vessels		21506

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1033	2546		The British Note Delivered by Sir Robert Craigie to the Foreign Minister on 31 December 1937		21540
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Tuesday, 6 May 1947

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INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Court House of the Tribunal
War Ministry Building
Tokyo, Japan

The Tribunal met, pursuant to adjournment,
at 0930.

- - -

Appearances:

For the Tribunal, same as before.

For the Prosecution Section, same as before.

For the Defense Section, same as before.

- - -

(English to Japanese and Japanese
to English interpretation was made by the
Language Section, IMTFE.)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: All the accused are present
4 except TOGO who is represented by counsel. The
5 prison surgeon of Sugamo certifies that TOGO is too
6 ill to attend the trial today. The certificate will
7 be recorded and filed.

8 Mr. Roberts.

9 J U J I E N O M O T O, a witness called on behalf
10 of the defense, resumed the stand and testified
11 through Japanese interpreters as follows:

12 DIRECT EXAMINATION

13 MR. ROBERTS: Mr. President, with respect to
14 the objection of the prosecution to the reference in
15 the affidavit of the present witness to two pamphlets,
16 I wish to inform the Court that it is our purpose to
17 have this witness identify the two pamphlets in ques-
18 tion so that they will be a part of the record.

19 With reference to the last paragraph and the
20 information where the United States Navy is stated
21 to be the source, the document from which this infor-
22 mation was taken will also be marked for identification.

23 THE PRESIDENT: Yes.

24 MR. ROBERTS: In view thereof, I again offer
25 in evidence defense document No. 1330.

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1 THE PRESIDENT: Don't you think you should
2 abandon this document and examine him in chief about
3 those two documents, about their existence? Get him
4 to produce them and identify them. There is another
5 question I wish to ask him also.

6 MR. ROBERTS: As soon as this document is
7 marked and before I read it I will ask him to identify
8 the other documents and have them marked at that time.

9 THE PRESIDENT: I don't see why you need this
10 document but there is no objection to the course you
11 pursue. It is admitted on the usual terms.

12 CLERK OF THE COURT: Defense document 1330
13 will receive exhibit No. 2541.

14 (Whereupon, the document above
15 referred to was marked defense exhibit
16 No. 2541 and received in evidence.)

17 MR. ROBERTS: May the witness be shown
18 defense document No. 1219?

19 (Whereupon, the said document was
20 handed to the witness.)

21 BY MR. ROBERTS (Continued):

22 Q Mr. ENOMOTO, will you examine defense docu-
23 ment No. 1219 and tell us whether or not it is an
24 official document issued by the Navy Department?

25 A This is an official document published by the

ENOMOTO

DIRECT

1 Navy Ministry.

2 Q And was this distributed to various head-
3 quarters mentioned in said certificate?

4 A Yes, it was.

5 MR. ROBERTS: I offer in evidence defense
6 document No. 1219.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Defense document 1219
9 will receive exhibit No. 2542.

10 (Whereupon, the document above
11 referred to was marked defense exhibit
12 No. 2542 and received in evidence.)

13 MR. ROBERTS: May the witness be shown
14 defense document No. 1218.

15 (Whereupon, the said document was
16 handed to the witness.)

17 Q Mr. ENOMOTO, will you examine defense docu-
18 ment No. 1218 and tell us whether or not that is an
19 official document issued by the Ministry of the Navy?

20 A This document is an official document published
21 by the Navy Ministry, just as the other document.

22 Q And was it distributed to the various head-
23 quarters mentioned in the certificate attached thereto?

24 A That is so.

25 MR. ROBERTS: I offer in evidence defense

ENOMOTO

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1 document No. 1218.

2 THE PRESIDENT: Admitted on the usual terms.

3 CLERK OF THE COURT: Defense document No. 1218
4 will receive exhibit No. 2543.

5 (Whereupon, the document above referred
6 to was marked defense exhibit No. 2543 and
7 received in evidence.)

8 MR. ROBERTS: May the witness be shown defense
9 document No. 223?

10 (Whereupon, the said document was
11 handed to the witness.)

12 Q Will you examine defense document No. 223,
13 Mr. ENOMOTO, and tell us whether or not it is an
14 official document issued by the Navy Ministry and dis-
15 tributed to the Chief of Staff of the Third Fleet?

16 A Is this the document you are referring to?

17 Q Document No. 223. Gummū Ichi Confidential:
18 No. 409.

19 A Thank you. This is an official document
20 published by the Navy Ministry.

21 MR. ROBERTS: I offer in evidence defense
22 document No. 223.

23 THE PRESIDENT: Admitted on the usual terms.

24 CLERK OF THE COURT: Defense document 223
25 will receive exhibit No. 2544.

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1 (Whereupon, the document above
2 referred to was marked defense exhibit
3 No. 2544 and received in evidence.)

4 THE PRESIDENT: I understand that only five
5 copies of this have been presented for the Judges.

6 MR. ROBERTS: I don't understand the reason
7 unless the paper shortage is catching up with us. It
8 is a very short document consisting of only five
9 sentences really important on one page.

10 THE PRESIDENT: The Judges must have copies.

11 MR. ROBERTS: I will attempt to get copies
12 in the meantime before we proceed with the reading
13 of that document.

14 May the witness be shown defense document
15 No. 1275?

16 (Whereupon, the said document was
17 handed to the witness.)

18 Q Please examine document No. 1275, Mr. ENOMOTO,
19 and tell us whether or not it is an official document
20 issued by the Navy Ministry and distributed to the
21 Chief of Staff of the China Seas Fleet.

22 A This is an official document published by
23 the Navy Ministry. It was distributed to the Chief
24 of Staff of the China Seas Fleet and also to the Chief
25 of Staff of the Fourth Fleet.

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1 MR. ROBERTS: I offer in evidence defense
2 document No. 1275.

3 THE PRESIDENT: Admitted on the usual terms.

4 CLERK OF THE COURT: Defense document 1275
5 will receive exhibit No. 2545.

6 (Whereupon, the document above
7 referred to was marked defense exhibit
8 No. 2545 and received in evidence.)

9 MR. ROBERTS: I shall read exhibit 2541, being
10 the affidavit of the present witness.

11 THE PRESIDENT: Mr. Tavenner.

12 MR. TAVENNER: If it please the Tribunal,
13 now that the documents referred to in that affidavit
14 have been admitted in evidence, the documents speak
15 for themselves and for that reason we think it is now
16 improper to introduce in evidence the affidavit. So
17 at this time I would like to point out that the only
18 thing that remains relevant in this affidavit is
19 the last paragraph as to which a motion was made
20 regarding its admissibility and, therefore, the
21 remainder of the affidavit would be irrelevant and
22 immaterial.

23
24 THE PRESIDENT: Well, he stated what rules
25 were made. Now he can say whether they were observed.
Of course, he cannot declare the law for us but he

1 can tell us what was done.

2 MR. ROBERTS: That is exactly the purpose of
3 the affidavit. (Reading)

4 "I graduated from Tokyo Imperial University
5 Law School in 1914.

6 "In 1915 I entered the Navy Ministry as legal
7 advisor. I continued in this capacity from 1915 to
8 1945 and since then have continued in the service of
9 the 2nd Demobilization Ministry and subsequently the
10 2nd Demobilization Bureau.

11 "In 1921 I attended the Naval Disarmament
12 Conference in Washington as a legal Expert.

13 "In 1922 I attended the commission of Jurists
14 to consider Amendment of Laws of War at The Hague.

15 "In 1927, 1930, 1932, 1934 and 1935 I also
16 attended Disarmament Conference At Geneva and London
17 as a legal Expert.

18 "My principal duty in the Navy Ministry was
19 to examine the draft of laws and regulations prior to
20 their enactment or revision and to submit my opinion
21 thereon to the Minister or Vice-Minister of the Navy.

22 "On July 27, 1937, the pamphlet 'Criteria
23 in Air Fighting' was issued for the guidance of the
24 Naval General Staff and the Navy Ministry.

25 "This pamphlet was distributed to the various

1 sections mentioned in the certificate attached to
2 said publication.

3 "In view of the lack of any recognized rules
4 of conduct at the time of the incident of July 7, 1937,
5 it was decided that the rules of aerial conduct should
6 be clarified in order to avoid unnecessary damage or
7 possible conflict with third powers. Although some
8 complaints were received from the China area that
9 these rules were placing too severe restrictions on
10 their operations, they were given the force of an order.

11 "Subsequently on September 24, 1937, a supple-
12 mentary guide was distributed to the same sections.
13 This was the pamphlet entitled 'Miscellaneous Observa-
14 tions on Aerial Bombing.' This second pamphlet was
15 issued through the initiative of Vice-Admiral YAMAMOTO
16 because of reports which he received indicating that
17 there was some further need for clarifying the rules
18 in order to assure strict observance of the previously
19 published regulations.
20
21
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1 "For example, one of the reports stated
2 that the pilot had bombed a target 'which seemed
3 to be a military target.' This, the Admiral stated,
4 was a dangerous situation in that it would lead to
5 bombing objectives without definitely ascertaining
6 their military character. The further rules were
7 published to prevent any laxity in the application
8 of the original set of regulations.

9 "Subsequently, and in November 1937 further
10 rules of conduct concerning the Visit and seizure
11 of shipping were published and distributed to the
12 various sections of the Navy. This was likewise
13 carried out because of the non-existence of any
14 definite international rules of conduct which would
15 be applicable to the situation.

16 "A careful check was kept on the reports
17 received daily in order to verify the fact that the
18 rules were being adhered to as well as to prevent
19 any possible unnecessary damage to non-military
20 targets and property, especially that of third powers.

21 "In general, it seems the establishing of
22 a pacific blockade is usually approved on the ground
23 that it may make resort to war less probable, and
24 thus limit the range of possible use of force.

25 "With reference to application of the pacific

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1 blockade, visit of third power Vessels was carried
2 out only in cases where there was doubt concerning
3 the nationality of the ship. In cases of doubtful
4 ships, they were required to be detained for a longer
5 period of time in order to make certain of their
6 nationality. In other cases ships were detained
7 only when they were clearly being used to lend direct
8 military assistance to the Chinese forces.

9 "In handling any protests from third powers,
10 we usually took the report which came in concerning
11 the incident and sent it to the respective comman-
12 ders for their further investigation. In some
13 cases we experienced difficulty in carrying out our
14 investigation because the area in question was
15 exclusively under Chinese control.

16 "In addition, it was recognized by some
17 powers, including United States Navy, that vessels
18 of third states could be prevented from entering any
19 port before which another state is maintaining a
20 pacific blockade."

21
22 THE PRESIDENT: Before you proceed any
23 further I have a question to ask on behalf of a
24 Member of the Tribunal.

25 "Were any draft rules of aerial warfare
adopted at the Hague?

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1 THE WITNESS: May I ask if this is a ques-
2 tion referring to the year in which this decision
3 was made?

4 THE PRESIDENT: You said you attended a
5 commission of jurists at the Hague. I am referring
6 to draft rules which may have been adopted by that
7 commission there but which were not ratified by the
8 powers or by all of them.

9 THE WITNESS: As your Honor is aware,
10 these rules were drafted at a commission for the
11 revision of the regulations of war, held at Hague,
12 in accordance with the resolution passed at the
13 Washington Conference in 1922, and was signed by
14 the representatives of America, England, France,
15 Italy, The Netherlands, and Japan, and these rules
16 were passed by the representatives of almost every
17 country without hardly any objection. However, for
18 some reason they were not ratified.

19 THE PRESIDENT: Did Japan ever undertake
20 to observe those rules? If so, when?

21 THE WITNESS: As I have just stated, since
22 these rules were never ratified they never came into
23 force as a treaty. However, at the time, since
24 these were the only provisions concerning aerial
25 warfare in international law, although they did not

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1 have legal force as international law, since these
2 rules had been drafted after long discussions be-
3 tween representatives of the six big powers, Japan
4 considered them as authoritative and in the event of
5 some incident occurring decided that she would
6 govern her conduct in accordance with these rules.

7 THE PRESIDENT: Did Japan make a public
8 announcement to that effect, and if so, when?

9 THE WITNESS: May I ask if by a public
10 announcement is meant a public declaration or some-
11 thing of that nature?

12 THE PRESIDENT: Yes.

13 THE WITNESS: We had hoped to make such an
14 announcement if the occasion -- if there were such
15 an occasion, but as the occasion did not arise it
16 was only passed to the various units in the form of
17 instructions.

18 I taught international law at the Staff
19 College, at the Paymasters' College, and at the Naval
20 Academy for many years, and I always taught my stu-
21 dents to observe these rules, and I have also written
22 about those rules in books which I have published.
23 The particular book in which I refer to those rules
24 wasn't of a secret nature. It was meant only for
25 use within the Navy, but it was distributed to per-

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1 sons outside of the Navy and also to the naval
2 attaches of the various countries, and therefore
3 I believe it is a public fact.

4 THE PRESIDENT: Have you a copy of those
5 Hague rules?

6 THE WITNESS: I have a report of the
7 Hague Conference. It is not a copy.

8 THE PRESIDENT: It is not for the Court
9 to lead evidence, to that extent, at all events.

10 THE WITNESS: I have a copy of the rules
11 also, but I also have the original, which is a report
12 concerning the Hague Conference.

13 THE PRESIDENT: Mr. Roberts.

14 MR. ROBERTS: I would be glad to offer the
15 report for identification at this time. It has
16 not been processed, but we can have it processed
17 at a later date.

18 THE PRESIDENT: If he had said that Japan
19 had publicly stated she would observe those rules
20 and those rules are proved, he might go on and say
21 what was done.

22 BY MR. ROBERTS:

23 Q Do you have with you, Mr. ENOMOTO, a copy
24 of the book published by you that you state was dis-
25 tributed outside of official circles?

1 A It is a very dirty copy, but I have one.
2 I have a new copy in the witness room.

3 MR. ROBERTS: For the purpose of corroborating
4 the witness's statement that this was distributed
5 outside of official circles, I offer that
6 copy to be marked for identification only.

7 THE PRESIDENT: In view of what he says, I
8 don't think it will help us to prove what the rules
9 were, because they were not adopted by the Japanese
10 Government.

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BY MR. ROBERTS: (Continued):

1 Q Mr. ENOMOTO, in the last paragraph of your
2 affidavit you quoted the United States Navy as a
3 source of a statement concerning the Pacific blockade.
4 Was this statement taken from any document in your
5 possession?
6

7 A Yes. This is from the 1932 edition of the
8 American Naval War College International Law Situation
9 with solution and notes.

10 Q Will you tell us the page on which the passage
11 here was taken from?

12 A Page 94.

13 MR. ROBERTS: If your Honor please, at this
14 time, in view of the objection made by the prosecution
15 to the statement and not having the source, I offer
16 the source for identification, page 94 of that book.

17 MR. TAVENNER: If the Tribunal please, objec-
18 tion is made on two grounds: First, that it is an
19 effort to establish a principle of law by citation of
20 some authority, which is a matter for argument and
21 presentation at the proper time before the Tribunal.

22 THE PRESIDENT: Authorities, assuming they are
23 such, are never tendered in evidence. They are referred
24 to simply. They stand on their own merits and not as
25 something proved here as matters of fact.

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1 Mr. TAVENNER: That is the basis of my main
2 objection.

3 Mr. ROBERTS: It was not my intention to offer
4 the document to be marked. I only did it because of
5 the fact that the objection was made previously to the
6 information contained in the affidavit.

7 It isn't really essential and I withdraw the
8 offer.

9 I read exhibit No. 2542.

10 "Criteria in Air Fighting.

11 "By Secretary ENOMOTO

12 "International rules and usages governing air
13 fighting are not fixed. I have made there criteria by
14 studying various existing rules and usages. Especially
15 an effort has been made to choose the 'golden mean.'
16 Therefore, I am sure that any action taken within the
17 scope of these criteria will not be subject to censure
18 from outside. These criteria being no more than a so-
19 called a standard of judgment there is of course much
20 room for choice in accordance with the circumstances of
21 each particular case.

22 "I. Bombing - Objectives

23 "Objectives which may be bombed:

24 "Irrespective of whether the city, town or
25 village is defended or undefended, the following objects

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may be bombed:

1 "(a) Warships (including all categories of
2 warships, and also converted cruisers).

3 "Military transport ships, military oil tankers
4 and all special duty vessels being used in military
5 service.

6 "(b) Armed forces (exception cases that
7 small numbers of soldiers are scattered within a city,
8 town or village).

9 "(c) Military works:

10 "Works of all kinds (including trenches and
11 log barriers, etc.)

12 "(d) Military establishment:

13 "Military camps, military barracks, military
14 aircraft hangars and sheds, wireless stations and
15 arsenals.

16 "(e) Military supply depots:

17 "Military supply depots (even those belonging
18 to civilians may be bombed if there is apprehension
19 that they should be used for a military purpose).

20 "(f) Factories engaged in the manufacture of
21 arms, ammunition and military supplies:

22 "Even civilian factories belonging to the
23 above category may be bombed. But such small plants as
24 are engaged in the manufacture of parts under
25

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1 subcontracts must be excepted. Bombing, in other
2 words, should be restricted to relatively prominent
3 factories.

4 "(g) Lines of communication and transportation
5 for military purposes, and railroad tracks and harbor
6 facilities used for the transport of military sup-
7 plies.

8 "When bombing any of the above mentioned objects,
9 utmost attention and care should be taken not to cause
10 damage to any things belonging to Third Powers or
11 to Third Power nationals.

12 "Objects which may not be bombed:

13 "The following objects may not be bombed so
14 long as they are not being used for military purposes:

15 "Of course, it is necessary for such objects
16 to be marked by signs clearly that they may be easily
17 distinguished. In case of no signs, he cannot protest
18 even if they are bombed. (But as there is a great
19 apprehension that such bombing should give rise to a
20 public controversy or to irritate public opinion, it
21 is necessary to have care not to carry out such bombing
22 in any cases.)

23 "But they may be bombed if they are used by
24 the enemy's armed forces as a base or are utilized by
25 the enemy for military actions.

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1 "(a) Places of public worship:

2 "Shrines, temples, churches, etc.

3 "(b) Buildings used for arts and sciences.

4 Schools, libraries, etc.

5 "(c) Buildings dedicated to charitable pur-
6 poses:

7 "Asylum for the aged, hospitals and sick rooms,
8 quarters for the wounded and the sick, hospital ships,
9 etc.

10 "(d) Establishments of historical importance,
11 historical monuments, tombs, art museums, etc.

12 "II Bombing of cities, towns or villages:

13 "This item contemplates cases where the whole
14 of a city, town or village (irrespective of whether
15 they are defended or undefended) becomes the target.

16 "Bombing of objects located within a city,
17 town or village shall be governed by the criteria laid
18 down in the above paragraph on bombing objectives.

19 "Even in cases where the whole of a city, town
20 or village may not be made the target of bombing,
21 individual objects located therein may be bombed.

22 "Bombing is permissible in the following cases:

23 "Where large armed forces are concentrated
24 in a city, town or village close to the area of opera-
25 tion of a land force (including landing party). It is

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1 unavoidable that the civilian population may be exposed
2 to danger, but every effort should, of course, be made
3 in such cases to minimize the danger to the civilian
4 population.

5 "Bombing is not permissible in the following
6 cases:

7 "(a) Where the purpose of bombing is merely
8 to intimidate the civilian population, to destroy an
9 object which is of no military character or to cause
10 injury to non-combatants, bombing is not permissible.

11 "(b) Where only a small force is scattered
12 about or encamped in a city, town or village far remote
13 from the area of operation of a land force, bombing the
14 whole of the city, town or village is not permissible.

15 "(c) Bombing on the ground that a requisition
16 order or levy has been refused is not permissible.

17 "III Notice (Warning) of bombing:

18 "In case of bombing, unlike naval or land
19 warfare, notice is not necessary.

20 "IV Bombing shall be restricted to areas
21 under the jurisdiction of China:

22 "Not only International Settlements and For-
23 eign Concessions, but even extra-Settlement areas where
24 Third nationals have close connections of interests
25 must be avoided."

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1 Then on the certificate I will just read the
2 headquarters to which the pamphlet was dispatched:

3 "Destination:

4 "Headquarters of the Combined 2d and 3d Fleets.

5 "Headquarters of the 1st, 2d and 3d Naval
6 Air Forces.

7 "Headquarters of the 1st and 2d Combined
8 Naval Air Groups.

9 "Headquarters of the 5th, 8th and 12th Naval
10 Units.

11 "Headquarters of the 1st and 2d Destroyer
12 Flotillas.

13 "Headquarters of the 1st and 2d Submarine
14 Flotillas.

15 "Headquarters of the 22d and 23d Naval Air
16 Groups.

17 "11. The said document, which was sent as a
18 reference, is customarily regarded as a quasi-order."

19 I now read exhibit No. 2543.

20 "1. Prohibition on terror bombing.

21 "Bombing which has no direct military value or
22 significance and is intended merely to terrorize enemy
23 nationals is prohibited.

24 "Consequently the bombing of any objects, other
25 than military objectives, located in cities, towns or

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1 villages far removed from areas of land fighting is
2 not legitimate.

3 "2. Selection of bombing targets.

4 "a. Bombing must always be aimed at military
5 objectives.

6 "It may sometimes happen that although the
7 bombing is not directed at a military objective, damage
8 may be caused to other objects through an unavoidable
9 error. But such an occurrence must be excused as an
10 unavoidable concomitant of war.

11 "There may also be cases where, notwithstanding
12 that the bombing has been accurately directed at a mili-
13 tary objective, damage is caused to other objects as a
14 natural consequence of the bombing. Since there is
15 nothing that can be done to prevent such result, the
16 question of responsibility therefor cannot arise.

17 "b. The dropping of bombs over any area under
18 the assumption that 'the military objective is probably
19 somewhere around this place,' in cases where the mili-
20 tary objective is not clearly distinguishable, is in
21 effect indiscriminate bombing, and hence illegitimate.

22 "c. There may be cases where bombing is car-
23 ried out under the erroneous belief that the object
24 selected as the target is a military objective; and if,
25 in such case, the object bombed proves to have been

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1 something other than a military objective, the ques-
2 tion will arise as to whether or not reasonable care
3 was exercised in the selection of the target.

4 "The answer to that question will depend upon
5 all the circumstances of the case, such as the location
6 of the object bombed, etc. And if from such circum-
7 stances it is adjudged that the bombing was carried out
8 with reasonable care (i.e. under such circumstances
9 that the error could not have been avoided by a flyer
10 engaged in a general bombing mission in the same posi-
11 tion and under the same conditions despite the exercise
12 of ordinary care), the bomber will not be held respon-
13 sible.

14 . "3. Bombing of land fighting areas and imme-
15 diate vicinity (where bombers cooperate with land artil-
16 lery and with warships cannonading defended cities,
17 towns or villages).

18 "a. There may be non-combatants and non-
19 military objects in the fighting zone in such cases, but
20 since it is impossible in fact to distinguish them
21 from combatants and military objects, a general or
22 uniform bombing (i.e. indiscriminate bombing) is inevi-
23 table. But even in such cases effort should be made
24 to afford every protection possible to hospitals, schools
25 (not including military schools) and libraries, and

1 any deliberate increasing of damage to noncombatants
2 should be avoided.

3 "b. Strips adjoining railways then being used
4 for transporting troops and military supplies to the
5 front lines, as well as areas not very far removed
6 from combat zones, may be treated the same as battle-
7 fields.

8 "c. Trains and stations being used at the time
9 for military transportation purposes are in themselves
10 military targets, and areas immediately adjacent to
11 such trains and stations will thereby become military
12 targets.

13 "4. Bombing of areas far removed from land
14 fighting zones.

15 "a. Bomb targets must be confined to mili-
16 tary objectives (armed forces, warships, military
17 works, military establishments, military supply depots,
18 factories engaged in the manufacture of arms, ammuni-
19 tion and military supplies, and lines of communication
20 and transportation and harbor facilities devoted to
21 military use). (Secretariat secret document No. 2800;
22 27 July 1937)

23 "b. Destruction of ordinary government offices
24 and of the economic structure must be avoided (i.e.,
25 barring some special circumstances).

1 "c. When bombing any of the targets mentioned
2 in (a) above, every possible effort should be made
3 not to cause damage to non-combatants (Third Power
4 nationals in particular) and objects entitled to special
5 protection (such as hospitals, schools, etc.). Par-
6 ticular care must be exercised in case of objects that
7 have been marked.

8 "d. If an object, though a legitimate mili-
9 tary target, is not of great importance, and there is
10 apprehension that the bombing of such object will
11 cause great damage to non-combatants or non-military
12 objects, it is better that such bombing be not carried
13 out, from the humanitarian point of view.

14 "N.B. It is, of course, hard to allow senti-
15 ment or emotion to cause one to hesitate to achieve
16 the maximum military results possible, the demands of
17 humanity must at the same time be strictly complied with.

18 "Even in the European War, in which combatant
19 rights were expanded to the extreme because of the
20 strong urge for reprisal, there were instances where
21 the flyers who, unsuccessful in their search for mili-
22 tary targets, returned without having unloaded their
23 deadly missiles because of the fear that blind bombing
24 would cause death and injury to non-combatants.

25 "On 8 September 1914 a non-commissioned officer

1 of the French Air Force took off with orders to bomb
2 Mulhouse; but as he was not able to find his objective
3 because of clouds and mist, he returned to Belfort
4 with all the bombs rather than risk killing or maiming
5 non-combatants.

6 "On 23 September 1914, British air squadrons
7 took off from their base to bomb Dusseldorf and Cologne.
8 They successfully bombed the Zeppelin hangars at Dus-
9 seldorf. But as Cologne was hidden from view by clouds
10 and mist, the bombers flew around it for an hour, and
11 still not being able to definitely identify their objec-
12 tive, they came back to their base without dropping
13 the bombs because of the fear that bombing under such
14 circumstances would result in damage to non-combatants.

15 "On 10 August 1917 Italy made an announcement
16 to the following effect:

17 "Bombs were not dropped by all the planes.
18 A part of them returned to their base with their bombs
19 because of the apprehension that, owing to darkness,
20 damage would be caused to ordinary civilians. That
21 is the general rule in Italy. Austrian flyers, on the
22 contrary, always resort to illegal bombing, and have
23 even bombed residential sections along the Po and
24 Isonzo Rivers by moonlight, etc., etc."
25

The statement of the headquarters to which

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1 the document was dispatched is as follows:

2 THE PRESIDENT: The same as before, isn't it?

3 It may not be.

4 MR. ROBERTS: I believe it is substantially
5 the same.
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1 I read exhibit No. 2544.

2 THE PRESIDENT: This is the one of which we
3 have not sufficient copies. They may have been dis-
4 tributed unknown to me, but I don't think so.

5 Read on, Mr. Roberts.

6 MR. ROBERTS: (Reading) "Gummu Ichi Confiden-
7 tial: No. 409.

8 "Date: October 15th, 1937.

9 "From: Chief of Military Affairs Bureau,
10 Navy Ministry. Director of the 1st Division, Naval
11 General Staff.

12 "To: Chief of Staff, Third Fleet.

13 "Subject: (Communication of) Information
14 Concerning the Treatment of Prisoners of War.

15 "In view of the present international relations,
16 when dealing with Chinese P.O.W.s who have come under
17 our authority, special attention must be paid on your
18 part, that we may invite no pretext for censure on
19 grounds of unlawful and cruel treatment.

20 "When dealing with those who are to be interned
21 as P.O.W.s, it is very important that our attitude will
22 signify (prove) fairness and justice in the light of
23 International Law, both to the home front and abroad.

24 "Therefore it is requested that P.O.W.s be
25 dealt with in accordance to the following, whenever

1 circumstances of the district concerned allows:

2 "1. The names and the affiliate units of
3 the P.O.W.s including those killed in action shall be
4 notified to the Chinese authorities.

5 "2. Necessary attention must be paid towards
6 sick or wounded P.O.W.s so that they are not treated
7 roughly. In case a P.O.W. dies, it shall be notified
8 to the Chinese authorities.

9 "3. The personal belongings of a deceased
10 P.O.W. (valuables, letters, etc.) shall be delivered
11 to the Chinese side.

12 "4. Any other necessary information concerning
13 P.O.W.s shall be notified to the Chinese, whenever
14 possible.

15 "5. The above-mentioned communication with
16 the Chinese authorities shall be carried out through
17 our Consul-General.

18 "(This matter has already been discussed with
19 Army Central authorities.)"

20 I read exhibit No. 2545.

21 "To: Chief of Staff, China Seas Fleet
22 Chief of Staff, 4th Fleet.

23 "From: Chief, 1st Section Naval General Staff.
24 Chief, Military Affairs Bureau, Navy
25 Ministry.

1 Subject: Instruction concerning visit and
2 search and capture of vessels.

3 "Whereas numerous directives and instructions
4 have been issued hitherto on the above subject, the
5 various essential matters relating to blockade which
6 have already been issued are collected together in
7 the following instructions being issued on the occasion
8 of the present reorganization of the blockade force.
9 We trust that there will be nothing amiss in the
10 enforcement of these instructions.

11 "1. Vessels belonging to Chinese (including
12 Chinese companies).

13 "(1). All vessels entering, leaving or
14 cruising around the blockade zone shall be captured
15 irrespective of their crews, passengers and cargoes,
16 and shall be taken to the designated place (Bako,
17 Sasebo or Port Arthur, whichever is most suitable).

18 "(2). Small boats engaged exclusively in
19 coastal fishing or other local business shall be exempt
20 from capture, except in cases where special reasons
21 exist (e.g. hostile act, transportation of military
22 supplies).

23 "(3). Where there is some reason for which
24 it is difficult to take a captured ship to the desig-
25 nated place, the following provisions shall govern:

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1 "(a) Important vessels.

2 "Disposition shall be made in accordance
3 with instructions to be received from Tokyo.

4 "(b) Small steamers, sailing boats and junks.

5 "If there is a base, other than one of the
6 designated places where an observation ship (or sentry)
7 can be posted, the ship shall be taken to such base.

8 "Where it is impossible to make the disposition
9 mentioned in the preceding paragraph, the following
10 shall govern:

11 "(i) Any military supplies (including
12 weapons) found among the cargo shall be seized; but
13 any goods not suitable for seizure shall be suitably
14 disposed of.

15 "(ii) Even goods other than military
16 supplies, if deemed to be of considerable value by
17 reason of their quantity and price, may if necessary
18 be disposed of along the same lines as military
19 supplies.

20 "(iii) Any military supplies belonging to
21 Third Power nationals found among the cargo shall be
22 detained.

23 "Where, in case of cargo being transferred
24 from a Third Power vessel to junks belonging to
25 Chinese nationals off the coast of Haikow and Fukien,

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1 it is considered certain that such cargo contains
2 military supplies, such cargo shall be examined
3 after its transfer to junks has been completed and
4 the military supplies shall be detained.

5 "(iv) Upon completion of the disposition
6 mentioned in the preceding paragraph, the vessel in
7 question shall be prevented from reaching its desti-
8 nation, such as by causing it to return to the place
9 from which it came.

10 "(v) Report shall be made as speedily
11 as possible of the items, quantities and method of
12 disposal of cargoes detained or otherwise disposed of,
13 as well as of the category and name of the vessel
14 (and if possible, of the names and addresses of the
15 owner and captain of the vessel).

16 "(c) Where measures are taken to overcome
17 resistance by a Chinese vessel, destruction of such
18 vessel may be inevitable; otherwise such vessels are
19 not to be destroyed.

20 "Where a vessel is destroyed, all persons
21 aboard shall be rescued except in cases of absolute
22 military necessity.

23 "(4) For the purposes of visit and search
24 and capture, Chinese-owned fishing boats and junks
25 which have acquired Hongkong registry shall be treated

1 the same as Chinese vessels. In the treatment of
2 their crews, however, care shall be taken not to give
3 rise to unnecessary controversies with British
4 authorities.

5 "(5) Crews and passengers of vessels which
6 are to be taken to a designated place shall be sent
7 to the nearest locality, with the exception of persons
8 whom it is especially necessary to detain.

9 "(6) Vessels belonging to the following
10 firms shall be treated the same as Japanese-owned
11 vessels under Chinese registry:

12 "Seikiyusen Konsu, Hitsu Konsu, Suigenyusen
13 Konsu, Tientsin Kogyo Konsu, Keiko Konsu, Chihokogyo
14 Konsu, Keitsuko.

15 "II. Japanese-owned vessels under Chinese
16 registry.

17 "Except where special reason exists, such
18 vessels shall not be captured, but shall be given
19 every possible protection.

20 "III. Vessels owned by Third Power nationals
21 under Chinese registry.

22 "Such vessels entering or leaving the blockade
23 zone shall be captured and taken to a designated place
24 irrespective of their crews, cargoes and passengers.

25 "Where it is difficult to take such vessels

1 to a designated place, they shall be treated the same
2 as in cases of vessels belonging to Chinese nationals.

3 "IV. Third Power vessels and vessels flying
4 Third Power flags.

5 "(1) Vessels which are clearly Third Power
6 vessels shall not be stopped nor subjected to visit
7 and search.

8 "(2) Where there is good grounds for the
9 suspicion that a vessel, although flying a Third
10 Power flag, is a Chinese vessel, it shall be subjected
11 to visit and search and its nationality examined.
12 If, as a result of visit and search, it is discovered
13 to be a Chinese vessel, its treatment shall be governed
14 by the provisions of Para. I above; otherwise, it shall
15 be released forthwith.

16 "(3) Treatment of vessels which have been
17 transferred from Chinese nationality to that of a
18 Third Power subsequent to the Blockade Declaration
19 of 25 August shall be governed by the following
20 provisions:

21 "(a) With regard to vessels whose registry
22 has been changed to that of Britain, America, France,
23 Germany and Italy under circumstances warranting
24 grave suspicion that the transfer of nationality was
25 fictitious, they shall be detained temporarily; and

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1 their final disposition shall be made upon receiving
2 instructions from Tokyo.

3 "(b) With regard to a vessel which has
4 been transferred to the registry of any nation other
5 than those mentioned in the preceding paragraph, if
6 there is any doubt as to such transfer, such vessel
7 shall be captured for the purpose of investigation
8 and shall be taken to a designated place. Report
9 thereof, however, must be made to Tokyo forthwith.

10 "(4) Whenever a Third Power vessel or a
11 vessel flying a Third Power flag has been stopped,
12 questioned or visited and searched, report shall
13 speedily be made of the time, place, nationality and
14 name of the vessel to the Commander-in-Chief of the
15 China Seas Fleet and to Tokyo.

16
17 "(5) When a Third Power vessel has been
18 visited and searched, the fact of its having been
19 visited and searched must be entered in its log if
20 demanded by its captain. (Cf. Rules of Naval War-
21 fare, Art. 149.)

22 "(6) If, in case there is necessity of
23 subjecting a vessel of British or Canadian registry
24 to visit and search, there is a British naval vessel
25 in the neighborhood, visit and search shall not be
carried out; instead, the British naval vessel shall

1 be requested to examine the vessel's nationality.

2 "V. The provisions of Arts. 139 to 141 of
3 the Rules of Naval Warfare shall apply mutatis
4 mutandis to stopping and visit and search of vessels.

5 "The number of boarding officers shall be
6 kept small (not more than three for carrying out visit
7 and search of British and Canadian vessels).

8 "When carrying out visit and search,
9 inspection shall be confined to the necessary ship's
10 papers. It is better to refrain from searching the
11 vessel. But the above need not be binding, of course,
12 if there is suspicion that the vessel is a Chinese
13 vessel.

14 "VI. Dai Kai Kimitsu No. 26, para. 4 (Re
15 Disposition of Chinese Vessels transferred to Third
16 Power Registry subsequent to 25 August) and Gunreibu
17 Kimitsu No. 722, para. 1 proviso (Re Disposition of
18 Vessels and Cargoes difficult to take to Designated
19 Place) are to be considered as having automatically
20 become extinct."

21 You may cross-examine.

22 THE PRESIDENT: Mr. Tavenner.

23 CROSS-EXAMINATION

24 BY MR. TAVENNER:

25 Q Mr. ENOMOTO, exhibit 2543 is a series of

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1 observations made by you on aerial bombing, as its
2 title implies; is that correct?

3 A This was compiled by myself in accordance
4 with orders from the Vice-Minister of the Navy and
5 was distributed to the various units -- various head-
6 quarters and therefore has the same force as an order.

7 Q I asked you if it was a series of observa-
8 tions made by you on the subject of aerial warfare.
9 Will you answer that question, please?

10 A Are you referring to the observations, or the
11 other document entitled "Criteria"?

12 Q I am referring to the one bearing the title
13 "Observations on Aerial Bombing," September, 1937.

14 A This is a document which I wrote in order
15 to insure that there would be no mistake in carrying
16 out the instructions embodied in the "Criteria," and
17 I wrote it in plainer language than that of the
18 "Criteria."

19 Q This document bearing the title "Observations
20 on Aerial Bombing" was sent to certain sections of
21 the fleet for information, isn't that true?

22 A They were distributed more in the nature of
23 instructions than of simple information.

24 Q You do not know of your own knowledge that
25 orders were actually distributed to the personnel

1 of the Japanese Navy, based on these observations,
2 do you?

3 A I know it of my own personal knowledge.

4 MR. TAVENNER: I did not understand the
5 reply.

6 (Whereupon, the last answer was
7 read by the official court reporter.)

8 Q Why, then, do you call this information in
9 the nature of an order?

10 A This form was customary in the navy. From
11 peacetime a general order to the effect that inter-
12 national laws and customs must be strictly observed,
13 and in cases where there is no provision of inter-
14 national law, the principle of international law must
15 be observed, and this order was strictly observed.
16 And, therefore, once a document defining the specific
17 provision of international law was issued, that docu-
18 ment would have the same effect as an order, once
19 such a document was distributed.

20 Q That is, it would be an order by reference?

21 THE PRESIDENT: We will recess for fifteen
22 minutes.

23 (Whereupon, at 1045, a recess was
24 taken until 1100, after which the proceedings
25 were resumed as follows:

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Tavenner.

4 MR. TAVENNER: I believe the witness
5 answered the last question but it was not translated.

6 THE INTERPRETER: The witness answered,
7 "That is not so."

8 MR. TAVENNER: There are no further
9 questions.

10 MR. ROBERTS: May the witness be excused
11 on the usual terms?

12 THE PRESIDENT: What is the English of that?

13 THE INTERPRETER: The witness answered,
14 "That is not so."

15 THE PRESIDENT: Mr. Roberts.

16 MR. ROBERTS: May the witness be excused on
17 the usual terms?

18 THE PRESIDENT: Before he goes, a Member
19 of the Tribunal desires to know whether this policy
20 or whatever we might call it with regard to China was
21 applied generally in the Pacific?

22 THE WITNESS: Naturally, these rules were
23 also applied in the Pacific war. The Pacific war was,
24 legally speaking, a war in every respect legal and
25 otherwise, and under such conditions the rules of

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1 naval warfare would naturally be applied which would
2 mean that the provisions of international law would
3 have to be applied and observed; and although the
4 name of the rules are "Rules of Naval Warfare," these
5 include land, sea and air.

6 THE PRESIDENT: That answer is not responsive,
7 as the Americans say; however, we understand what he
8 means.

9 He is excused on the usual terms.

10 (Whereupon, the witness ~~was~~ excused.)

11 MR. ROBERTS: We offer in evidence defense
12 document No. 1033 which is a note from the British
13 ambassador to the Japanese Foreign Minister re measures
14 to protect foreign shipping.

15 THE PRESIDENT: Admitted on the usual terms.

16 CLERK OF THE COURT: Defense document 1033
17 will receive exhibit No. 2546.

18 (Whereupon, the document above
19 referred to was marked defense exhibit No. 2546
20 and received in evidence.)

21 MR. ROBERTS: I read exhibit No. 2546:

22 "THE BRITISH NOTE DELIVERED BY SIR ROBERT
23 CRAIGIE TO THE FOREIGN MINISTER ON DECEMBER 31, 1937.

24 "Your Excellency,

25 "I have the honor on instructions from His

1 Majesty's Government in the United Kingdom to inform
2 Your Excellency that they have noted with appreciation
3 the assurances contained in Your Excellency's note
4 of December 28th in connection with the attacks on
5 British warships and merchant shipping on December 12,
6 and have learnt with satisfaction that the statements
7 contained in Your note of December 14 apply to mer-
8 chant vessels concerned as well as to warships.

9 "His Majesty's Government are bound to
10 observe that their information in regard to the circum-
11 stances in which the attacks took place -- notably,
12 for instance, on points of visibility -- is at variance
13 with that of the Japanese Government.

14 "His Majesty's Government note however
15 with satisfaction that the Japanese Government have
16 taken or are prepared to take the necessary measures
17 to deal suitably with the officers responsible for
18 these incidents and to prevent any repetition. As
19 regards the latter His Majesty's Government consider
20 that the details of these measures and their effective
21 application may suitably form the subject of further
22 conversations in the course of which they do not doubt
23 that they will be informed of actual steps decided upon.

24 "I avail myself of this opportunity to renew
25 to Your Excellency the assurance of my highest

1 consideration.

2 (signed) R. L. Craigie."

3 We offer in evidence defense document
4 No. 1177, a radio address by Prince KONOYE on Novem-
5 ber 3, 1938, setting forth the policy of Japan in
6 East Asia.

7 THE PRESIDENT: Brigadier Nolan.

8 BRIGADIER NOLAN: May it please the
9 Tribunal, this radio address has already been marked
10 as part of exhibit 460-A at page 5253 of the record.

11 THE PRESIDENT: Did you say 560 or 460?

12 BRIGADIER NOLAN: I said 460-A, if you
13 please.

14 MR. ROBERTS: I understood it has not been
15 read. I only desire to read--

16 BRIGADIER NOLAN: Portions of it were read
17 but it was not read in its entirety.

18 THE PRESIDENT: But why have a fresh document?
19 Why not read that part of exhibit 460-A that was not
20 read by the prosecution?

21 MR. ROBERTS: That is exactly what I wanted
22 to tell your Honor.

23 THE PRESIDENT: You withdraw this document,
24 defense document No. 1177?

25 MR. ROBERTS: Yes. I withdraw the offering

1 of the document but in order to save time, in view
2 of the fact that it is the same document, I would
3 like to read on page 4 and page 5, as being an excerpt
4 from exhibit 460-A. The second paragraph on page 4,
5 beginning with the word "Japan:"

6 "Japan is in no way opposed to collabora-
7 tion with foreign powers nor does she desire to im-
8 pair their legitimate rights and interests. If the
9 powers, understanding her true motives, will formulate
10 policies suited to the new conditions, Japan will be
11 glad to cooperate with them. Japan's zeal for com-
12 battling communism is certainly well known by this
13 time. The aim of the Comintern is to sovietize the
14 Orient and to overturn the world. Japan is firmly
15 determined to eradicate the communistic influence which
16 is behind the so-called 'long term resistance' of the
17 Chiang regime. Germany and Italy, our allies against
18 Communism, have manifested their sympathies with Japan's
19 aims in East Asia and we are profoundly grateful for
20 the great encouragement that their moral support has
21 given our nation during this crisis. In the present
22 emergency, it is necessary for Japan not only to
23 strengthen still further her ties with those countries
24 but also to collaborate with them in a common world
25 outlook towards the reconstruction of international

1 order.

2 "What the world needs today is a lasting
3 peace based upon a foundation of justice and fair
4 dealing. It cannot be denied that the principles
5 governing international relations in the recent
6 past have in practice tended only to preserve and
7 perpetuate with cast iron rigidity an inequitable
8 state of affairs. In this irrational arrangement
9 lies the fundamental cause of the collapse of the
10 Covenant of the League of Nations along with many
11 other pacts and treaties. We should not allow
12 international justice to remain merely a beautiful
13 phrase, but we should strive to create a new frame-
14 work of peace, in accordance with a comprehensive
15 view of all human activities -- commerce, immigration,
16 natural resources, culture, etc. -- and in keeping
17 with the actual conditions and the progress of events,
18 I firmly believe that this is the only way to overcome
19 the universal crisis which confronts us today."

20 We offer in evidence defense document
21 No. 1191 which is a statement of the Foreign Office
22 spokesman dated November 15, 1939, concerning Japan's
23 maintenance of its attitude towards certain powers.
24

25 THE PRESIDENT: Brigadier Nolan.

BRIGADIER NOLAN: May it please the Tribunal,

1 we object to this statement of the Foreign Office
2 spokesman. It is in no better position than the
3 other releases to which we have paid our attention in
4 the last few days.

5 MR. ROBERTS: It is an official statement
6 constituting one sentence concerning the fact that the
7 Japanese Government has not changed its attitude towards
8 third powers.

9 THE PRESIDENT: It seems to be covered by
10 the earlier adverse decision. Do you contend other-
11 wise?

12 MR. ROBERTS: This is a statement in 1939
13 which is long after the events have begun and in order
14 to answer any questions as to the change of attitude
15 on the part of Japan during that period of time.

16 THE PRESIDENT: It seems to me to be covered
17 by the adverse decisions given previously. The objection
18 is upheld and the document rejected.

19 MR. ROBERTS: We offer in evidence defense
20 document 234 which is an official communique issued by
21 the Foreign Office concerning Foreign Minister NOMURA's
22 statement to Ambassador Grew concerning the gradual
23 modification of the blockade on the Yangtze River for
24 the purpose of showing the desire to cooperate with
25 third powers.

1 THE PRESIDENT: Brigadier Nolan.

2 BRIGADIER NOLAN: It is submitted, may it
3 please the Tribunal, that this document is covered
4 by the previous ruling. It purports to prove what
5 the Japanese Foreign Minister told Mr. Grew but we
6 submit this is not the way to prove it.

7 MR. ROBERTS: This is likewise an official
8 statement to point out the information given to
9 Ambassador Grew on December 18, 1939 concerning the
10 blockade.

11 THE PRESIDENT: This also appears to be
12 covered by earlier adverse decisions. The objection
13 is upheld and the document rejected.

14 MR. ROBERTS: I will formally tender defense
15 document 235, which also seems to come within the
16 Court's ruling.

17 THE PRESIDENT: Brigadier Nolan.

18 BRIGADIER NOLAN: To which document the
19 prosecution objects.

20 THE PRESIDENT: The objection is upheld and
21 the document rejected.

22 MR. ROBERTS: We offer in evidence defense
23 document No. 1331 which is a declaration pertaining to
24 the blockade of Wenchow and Fushow on June 27, 1939.

25 THE PRESIDENT: Brigadier Nolan.

1 BRIGADIER NOLAN: May it please the Tribunal,
2 this document as will be seen from examining the certif-
3 icate of authenticity is taken from a book consisting
4 of 992 pages. The certificate goes on to say that the
5 document is compiled and issued by the Japan Inter-
6 national Society. I submit that if it is the intention
7 of the defense to prove a declaration dated the 27th
8 of June 1939, they must do so in a proper manner and
9 not rely on an excerpt from a book published by a
10 society of which I have no knowledge.

11 MR. ROBERTS: According to the declaration
12 on the heading of the document which has been added
13 by an errata sheet issued after the document was
14 processed, it states that it is a declaration issued
15 to various custom houses and foreign diplomats by
16 Consul General MIURA and evidently the original was in
17 the possession of the International Allied Research
18 Society. It simply refers to particular points that
19 are listed as coming within the blockade. I believe
20 it will be helpful in aiding this Court in determining
21 whether or not notice was given to third powers con-
22 cerning the establishment of the blockade in contra-
23 vention of the facts stated by the prosecution.

24 THE PRESIDENT: The objection is upheld and
25 the document rejected.

1 MR. ROBERTS: We offer in evidence defense
2 document 1225 which is a radio address by the Vice
3 Minister of Foreign Affairs on September 2, 1937,
4 over the Columbia Broadcasting Company, an American
5 station, concerning Japan's policy.

6 THE PRESIDENT: Brigadier Nolan.

7 BRIGADIER NOLAN: May it please the Tribunal,
8 this document we submit, Sir, is in no better position
9 than an ordinary press release. It is an appeal for
10 better understanding between the United States and
11 Japan and, we submit, an attempt to influence American
12 public opinion by affording an explanation of the
13 underlying causes of the conflict as they appeared to
14 the Vice Minister of Foreign Affairs. We object to
15 the document.

16 MR. ROBERTS: The defense submits that this
17 official address by a Vice Minister of Foreign Affairs
18 is part of the explanation adopted by these defendants
19 and is offered to prove--

20 THE PRESIDENT: We admitted several of them
21 but they are all to the same effect and they are
22 becoming repetitive.

23 MR. ROBERTS: May I state that this is made,
24 as stated, for public notice to the United States and
25 is our last document on this question. It certainly

1 goes forward in proving the absence of a common plan
2 of conspiracy on the part of these defendants.
3

4 THE PRESIDENT: By a majority the Court
5 overrules the objection and admits the document; but
6 the decision is based largely on your assurance that
7 it is the last document of that kind.

8 MR. ROBERTS: I am, of course, referring
9 to the subdivision which I am handling at the present
10 time.

11 CLERK OF THE COURT: Defense document 1225
12 will receive exhibit No. 2547.

13 (Whereupon, the document above
14 referred to was marked defense exhibit No.
15 2547 and received in evidence.)
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1 MR. ROBERTS: I read exhibit 2547:

2 "Japan's policy toward China. Radio ad-
3 dress by Mr. Katsuke HORINOUCI, Vice-Minister for
4 Foreign Affairs, Columbia Broadcasting System, Sep-
5 tember 2, 1937.

6 "American Friends:

7 "In the few minutes at my disposal I wish
8 to speak to you on some of the fundamental aspects
9 of Japan's policy toward China. I do so in the hope
10 that our traditional friends, the people of the United
11 States, with whom we have enjoyed eighty years of
12 unbroken peace and amity, may obtain a better under-
13 standing of the present situation in the Far East.

14 "We are as strong in our desire for peace as
15 you are. We believe that a nation should not only be
16 animated by a desire for peace, but should realisti-
17 cally seek to establish those conditions which are
18 assential for the maintenance of peace. This we have
19 always endeavored to do.

20 "It is indeed fortunate that our patient
21 and persistent efforts toward establishing our re-
22 lations with China on a firm and friendly basis had
23 to be interrupted by the present conflict. We still
24 hope, however, that we shall be able to come speedily
25 to terms with our next-door neighbor and stabilize

1 our relations to our mutual benefit.

2 "Why, then, have we had to resort to arms?
3 We must emphasize, first, that the expeditionary
4 forces of Japan now in China have been sent there for
5 no aggressive purposes and, secondly, that we have
6 no territorial designs. Our forces are in China to
7 safeguard our legitimate interests, to protect our
8 rights, and to secure the safety of our nationals.
9 These forces will be withdrawn the very moment that
10 their presence is no longer required.

11 "And what, you may ask, necessitated the
12 sending of such forces? In answering this question
13 let me summarize the main features of the present
14 conflict. I shall first explain the immediate causes
15 of the trouble which prompted our decision to dis-
16 patch reinforcements to China, and then the more far-
17 reaching and underlying causes which have aggravated
18 the situation to such serious proportions.

19 "The immediate cause of the present conflict
20 was the firing by Chinese soldiers upon a small unit
21 of our garrison troops which were holding the usual
22 night maneuvers with blank cartridges in the outskirts
23 of Peiping on the night of July 5th. As a matter of
24 fact, the troops of all Powers maintaining garrisons
25 in China were entitled to hold these maneuvers under

1 the Boxer agreement of 1901 with China. Japan im-
2 mediately endeavored to minimize this incident by
3 seeking a peaceful local settlement both on the spot
4 and at Nanking through diplomatic channels. Refusing
5 to accept this friendly overture the Central Govern-
6 ment of China at Nanking declared that any settlement
7 concluded locally would not be recognized, and began
8 to rush huge armies to North China. We had hoped up
9 to the last moment for a speedy and peaceful settle-
10 ment of this untoward incident, but, in view of the
11 hostile measures taken by the Nanking Government, we
12 were obliged eventually to take counter-measures so
13 as to avert the danger of a complete wiping out of
14 our garrison and residents in North China, so the
15 Japanese Government decided to send reinforcements.

16 "The theater of conflict has since extended
17 to the densely populated international City of
18 Shanghai, in which live many foreigners and with
19 which are bound to the rights and interests of many
20 countries. Even before the North China Affair, sol-
21 diers of the regular Chinese army were filtering into
22 Shanghai under the guise of belonging to the armed
23 police force known as the Peace Preservation Corps.
24 This was in violation of the 1932 Truce Agreement
25 signed by China and Japan and countersigned by the

1 United States, Great Britian, France and Italy. This
2 agreement, made to ensure the security of the Inter-
3 national Settlement, provides for a special zone in
4 and around Shanghai within which all and every form
5 of hostile action is prohibited. Wilfully disregard-
6 ing this arrangement, the Chinese massed huge forces
7 and erected military works around the Japanese quarter
8 of the Settlement, threatening the safety of our
9 thirty thousand residents there. Then suddenly the
10 Chinese Peace Preservation Corps murdered an officer
11 and a sailor of our Landing Party, which created a
12 situation fraught with imminent danger.

13 "To cope with any possible emergency our
14 Government reinforced the small naval force which
15 was enormously outnumbered by the hostile Chinese
16 troops.

17 "Earnestly solicitous as we are of the safety
18 of the lives and property of foreigners as well as of
19 Japanese in and around Shanghai, the Japanese Govern-
20 ment has done everything possible to preserve those
21 areas from the disaster of hostilities. Our landing
22 parties were under strict orders to act with the ut-
23 most patience, while the Government expressed its
24 readiness to restore them to their original positions
25 provided the Chinese withdraw their forces, which

1 were massed near the International Settlement. Far
2 from withdrawing these troops the Chinese took the
3 offensive against our naval forces and precipitated
4 the hostilities in Shanghai.

5 "I should add that when the atmosphere grew
6 tense following the murder of our naval men the
7 Japanese government faithful to its declared policy
8 of non-aggravation, ordered the evacuation of our
9 nationals in Hankow and other points in the interior
10 of China. Although such evacuation amounted almost
11 to a complete sacrifice of business interests built
12 up by our nationals during the years of arduous toil,
13 this was deemed necessary as a precautionary measure
14 to avoid untoward incidents.

15 "I should also add that, at the moment when
16 our Government was giving its favorable consideration
17 to the proposal made by foreign Powers to keep
18 Shanghai free from hostilities, the Chinese launched
19 a sudden attack upon the International Settlement,
20 our Consulate-General, and our warships, bombing
21 them indiscriminately from the air - - and our
22 forces were naturally compelled to return the fire.

23 "The dispatch by your country of a regiment
24 of marines to augment your regular marine forces
25 stationed at Shanghai undoubtedly has brought home

1 to you the gravity of the situation in that cosmopol-
2 iten city. In view of this character of the city we
3 want to take effective measures to stop once and for
4 all the lawless activities of the Chinese forces and
5 make the metropolis safe from the repetition of a
6 similar misfortune in the future. I hope that our
7 reinforcements at Shanghai will soon succeed in re-
8 storing peace and security to the International
9 Settlement.

10 "Let me now briefly replain the underlying
11 causes of the conflict -- the driving forces at work
12 in China today -- for an understanding of them will
13 enable you to grasp the true nature of the issues in-
14 volved, and thus clarify the stand now being taken
15 by our Government.

16 "When I say driving forces, I mean those
17 shaping China's national policy and program. The
18 ultimate aim of those forces today as declared by
19 the leaders of China is to unite and revitalize
20 China into an organized nation. In that aim, the
21 Japanese nation is sympathetic. We certainly hope
22 to see such a China come into being, for then only
23 can we enjoy real stability and security in the Far
24 East. Unfortunately, however, these Chinese leaders
25 have chosen the wrong means to achieve their purpose.

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1 For several years past they have carried on a re-
2 lentless anti-Japanese campaign, adopting it as their
3 policy -- as a means of obtaining united national
4 support for the Nanking Government. Extremist elements
5 have during recent years combined their strength to
6 push forward this anti-Japanese campaign.

7 "It is common knowledge that the Communists
8 have been playing a significant role in the nation-
9 wide agitation against Japan. It is also wellknown
10 that these elements are supported by the Communist
11 International which aims at the destruction of the
12 existing structure, both political and social, of the
13 entire world. These elements are the forces di-
14 recting the destinities of China today. These are the
15 forces -- one anti-Japanese, the other Communistic --
16 with which Japan must contend. These are the forces
17 that underlie the fundamental causes of the present
18 situation in China.

19 "For the sake of her own national security
20 and for the sake of the peace of East Asia, Japan
21 must eradicate this Communist menace. We have, there-
22 fore, repeatedly invited the attention of the Chinese
23 Government to the danger of Communism, simultaneously
24 requesting them to suppress effectively the anti-
25 Japanese agitation. But, far from listening to us,

1 the Chinese Government joined hands with the Commu-
2 nists in their campaign against Japan, which became
3 increasingly violent, and with this, all our efforts
4 at re-adjusting Sino-Japanese relations proved futile.

5 "It is to be greatly deplored that a major
6 conflict which we have striven to the last to avoid
7 is now going on. But, as I stated at the outset, we
8 have not lost hope for peace. Japan is deeply con-
9 scious that she must live in harmony and cooperation
10 with China, for, after all, we are close neighbors,
11 who should cooperate on the friendliest of terms for
12 our mutual well-being.

13 "Ties of many centuries bind the two nations
14 together. Economically, if not politically, one cannot
15 live without the other. This is a basic truth. As
16 we sympathize with China's problems, so we ask her to
17 understand and appreciate ours. We have to help each
18 other. There is no alternative. Sino-Japanese under-
19 standing is the first essential for Japan to live, for
20 China to live, for the entire Far East to live, in
21 peace and security. This also is a basic truth.

22 "It is with these truths in mind that the
23 Japanese Government is pursuing its policy in relation
24 to the present conflict. We sincerely hope that China
25 will come to realize these basic truths, and that

1 peace will soon be restored. We ardently hope that
2 the relations between Japan and China will thus be
3 put on a new and enduring basis.

4 "In closing, I wish to express the appre-
5 ciation of both the Government and the people of
6 Japan for the attitude which your country has main-
7 tained toward Japan during the present Sino-Japanese
8 affair. The fair attitude taken by your Government
9 and its offers of good offices are to us a source
10 of deep gratitude. We are also grateful to your
11 official representatives in China for the kind con-
12 sideration they have accorded our officials and
13 nationals in that country."
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It was not until I had been in the office for some time that I began to feel the weight of the responsibility which had been placed upon me. I was not a young man, and I had not the usual advantages of youth. I was not a student, and I had not the usual advantages of a university. I was not a soldier, and I had not the usual advantages of a military training. I was not a statesman, and I had not the usual advantages of a political education. I was not a philosopher, and I had not the usual advantages of a philosophical training. I was not a scientist, and I had not the usual advantages of a scientific education. I was not a lawyer, and I had not the usual advantages of a legal education. I was not a doctor, and I had not the usual advantages of a medical education. I was not a minister, and I had not the usual advantages of a theological education. I was not a merchant, and I had not the usual advantages of a business education. I was not a farmer, and I had not the usual advantages of an agricultural education. I was not a craftsman, and I had not the usual advantages of a technical education. I was not a laborer, and I had not the usual advantages of a manual education. I was not a soldier, and I had not the usual advantages of a military training. I was not a statesman, and I had not the usual advantages of a political education. I was not a philosopher, and I had not the usual advantages of a philosophical training. I was not a scientist, and I had not the usual advantages of a scientific education. I was not a lawyer, and I had not the usual advantages of a legal education. I was not a doctor, and I had not the usual advantages of a medical education. I was not a minister, and I had not the usual advantages of a theological education. I was not a merchant, and I had not the usual advantages of a business education. I was not a farmer, and I had not the usual advantages of an agricultural education. I was not a craftsman, and I had not the usual advantages of a technical education. I was not a laborer, and I had not the usual advantages of a manual education.

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1 At this time I believe the witness who was
2 ill yesterday is now prepared to take the stand, and
3 Mr. Mattice will introduce the witness.

4 - - -

5 H I R O T S U G U T S U K A M O T O, called as a
6 witness on behalf of the defense, being first
7 duly sworn, testified through Japanese interpre-
8 ters as follows:

9 DIRECT EXAMINATION

10 BY MR. MATTICE:

11 Q Will you give your name and address, please?

12 A My name is TSUKAMOTO, Koji.

13 MR. MATTICE: I ask that the witness be
14 shown defense document 1074, please.

15 (Whereupon, a document was handed
16 to the witness.)

17 Q Will you look at the instrument which has
18 just been handed you and tell this Tribunal whether
19 that is your affidavit.

20 A This is my affidavit without mistake. How-
21 ever, there are a few corrections I wish to make.

22 Q What corrections, Mr. TSUKAMOTO?

23 A Page 3, paragraph eight: "The kinds of
24 crimes were chiefly plunder, theft, etc., while the
25 cases of rape and injury were few." Here, this sen-

1 tence should be corrected as follows: "The kinds of
2 crimes were chiefly plunder, rape, etc., while the
3 cases of theft and injury were few."

4 Q Any other corrections?

5 MR. MATTICE: Defense desires to offer in
6 evidence, if the Court please, not all of this instru-
7 ment but all --

8 A I should also like to exclude paragraph
9 seven from my affidavit.

10 MR. MATTICE: This instrument is offered
11 with the exception of paragraph seven, beginning at
12 the bottom of page 2 in the English translation copy,
13 and all of page 4. The rest of the affidavit is
14 offered in evidence.

15 THE PRESIDENT: Mr. Sutton.

16 MR. SUTTON: The prosecution objects to
17 section 3 of the affidavit and moves that it be
18 stricken as in violation of the rule allowing the wit-
19 ness to give the purport of a document without a
20 satisfactory explanation as to why the original is
21 not produced.

22 MR. MATTICE: I think that paragraph states
23 a fact. The subject of it is that he countersigned
24 an instrument of the description which he then gives.
25 He does not purport to give the contents.

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1 THE PRESIDENT: You would be right if it
2 just simply said "instructions dealing with military
3 discipline," but he proceeds to state what the ef-
4 fect of the instructions is. Perhaps you will not
5 tender that paragraph.

6 MR. MATTICE: Let paragraph three be ex-
7 cluded also.

8 I will now read defense document 1074.

9 THE PRESIDENT: It is admitted to the extent
10 offered.

11 CLERK OF THE COURT: Defense document 1074
12 will receive exhibit No. 2548.

13 (Whereupon, the document above re-
14 ferred to was marked defense exhibit 2548
15 and, to the extent indicated, received in
16 evidence.)

17 MR. MATTICE: Omitting the formal parts and
18 the excluded portions, (Reading)

19 "I had been a military judiciary till August
20 1943, when I retired. My career in the Shanghai Ex-
21 peditionary Force is briefly as follows:

22 "August 15, 1937 appointed Chief of No. 10
23 Army Judicial Department.

24 "August 30, 1937, judiciary of the Shanghai
25 Expeditionary Force, prosecutor of the same.

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1 "February 9, 1938, prosecutor, preliminary
2 judge and judge of the Central China Expedition-
3 ary Force.

4 "January 1939, returned home.

5 "With the close of the battles around
6 Shanghai and the commencement of our army's pursuit
7 of the Chinese forces, I became much more pressed
8 with work as the Chief of the Judicial Department.
9 After entering Nanking I was occupied much in the
10 same way. On the very day of formal entry into the
11 city, I remember having tried some four cases.

12 "I am convinced that I was strict enough to
13 punish those who violated the military discipline, in
14 compliance with the order of Commander MATSUI and in
15 conformity with the Field Service Regulations. So
16 strict was the attitude of the Judicial Department of
17 the Shanghai Expeditionary Force that sharp comments
18 were sometimes made by some units on our severe pun-
19 ishment and our close examination into even slight
20 offences. Such criticism was made known to me by
21 Lieutenant Colonel OTSUKA, member of the Judicial
22 Department, War Ministry, when he visited to estab-
23 lish communication with us. However, I carried out
24 my judicial duties strictly in accordance with the
25 military criminal law and in compliance with the

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1 intentions of Commander MATSUI.

2 "After the entry into Nanking, unlawful acts
3 were committed by Japanese troops, and I remember
4 having examined into these cases. I also remember
5 Commander MATSUI calling all officers together and
6 telling them of the occurrence of such cases and giv-
7 ing strict orders for the maintenance of military
8 discipline with the greatest severity.

9 "Four or five officers were involved in the
10 above cases, and the rest were mostly trifling ones
11 committed by privates. The kinds of crimes were
12 chiefly plunder, rape, etc., while the cases of theft
13 and injury were few, and the cases of death caused
14 by those very few, to the best of my knowledge. I
15 remember there were a few murder cases, but have no
16 memory of having punished incendiaries or dealt with
17 mass slaughter criminals. The above crimes were com-
18 mitted at different places, but a considerable number
19 of cases, I believe, took place in the refugees'
20 quarters in Nanking.

21 "The Judicial Department had no right of
22 carrying out search for crimes. The criminals were
23 sent to Judicial Section after search and arrest by
24 the M.P. directly attached to the Army H.Q. Then we
25 collected evidence, based on which they were prose-

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1 cuted."

2 You may cross-examine.

3 THE PRESIDENT: Mr. Sutton.

4 MR. SUTTON: May it please the Tribunal.

5 CROSS-EXAMINATION

6 BY MR. SUTTON:

7 Q When were you in Nanking and for how long?

8 A I believe it was around the 17th or 18th of
9 December, 1937 that I entered Nanking. I left Nan-
10 king in August, 1938.

11 Q How many cases did you examine in December,
12 1937 and January, 1938?

13 A I do not remember clearly.

14 Q Can you give us an idea as to the number?

15 A I think it was something around ten cases.

16 THE PRESIDENT: We will adjourn now until
17 half-past one.

18 (Whereupon, at 1200, a recess was
19 taken.)
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1 AFTERNOON SESSION

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3 The Tribunal met, pursuant to recess, at
4 1334.

5 MARSHAL OF THE COURT: The International
6 Tribunal for the Far East is now resumed.

7 THE PRESIDENT: Mr. Sutton.

8 CROSS-EXAMINATION

9 BY MR. SUTTON (Continued):

10 Q Nanking fell on December 13, 1937, did it
11 not?

12 A I don't remember exactly the date, but I
13 believe it was roundabout that date.

14 Q When did General MATSUI enter Nanking?

15 A I don't know.

16 Q Were you in Nanking when General MATSUI
17 entered the city?

18 A Although I was present at the ceremony for
19 the entry of the Japanese troops into Nanking,
20 I don't recall exactly -- definitely whether General
21 MATSUI was there when I entered the city.

22 Q I asked you whether you were there when
23 General MATSUI entered.

24 A I believe he was there.

25 Q When did General MATSUI call together

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1 all of his officers?

2 A I don't remember clearly about that, but
3 I believe that it happened sometime after the
4 entry of the Japanese troops into Nanking.

5 Q How long after General MATSUI had made his
6 triumphal entry into the city did this occur?

7 A I believe it happened on the same day.
8 However, I am not positive about it.

9 Q I suggest to you that General MATSUI
10 entered the city on December 17. Does that refresh
11 your recollection?

12 A Although I don't know when exactly
13 General MATSUI entered into the city of Nanking,
14 however, as I recall, the ceremony for the entry of
15 the troops into Nanking was held on the 17th of
16 December.

17 Q And on that same day General MATSUI held a
18 meeting of all of his officers, as testified in
19 the sixth paragraph of your affidavit, is that
20 correct?

21 A As I recall, it happened sometime after the
22 ceremony for the entry into the city was held.

23 Q What unlawful acts of soldiers did General
24 MATSUI say had been committed?

25 A I don't think that he spoke about any

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1 specific legal acts committed at the time -- before
2 and after the entry of Japanese troops into Nank-
3 ing, but he spoke about what had happened in
4 general during the period between the time the
5 Japanese troops left Shanghai and entered Nank-
6 ing; and in the light of what happened, he said,
7 as I recall, that the Japanese troops should be
8 more careful in the future.

9 Q You say in your affidavit, Section 6,
10 that after the entry into Nanking unlawful acts
11 were committed by Japanese troops, and that
12 General MATSUI called together all of his officers
13 and told them of the occurrence of such acts.
14 I ask you again: What unlawful acts did General
15 MATSUI say had been committed?

16 A I don't remember any concrete examples
17 of what he had said. However, he said that various
18 incidents of rape and massacre was likely -- are
19 likely to happen. Therefore troops should exer-
20 cise more caution so that those untoward inci-
21 dents would not happen.

22 THE MONITOR: Correction on the word
23 "massacre." It should be "looting or plunder."

24 THE INTERPRETER: The witness further said
25 that "therefore stricter discipline should be

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1 imposed upon the troops so that those incidents
2 would not happen.

3 Q Had the acts of rape and looting already
4 taken place?

5 A He did not speak of any definite -- any
6 specific acts committed in Nanking, but he spoke
7 in general about what had happened between the
8 time the troops started from Shanghai and arrived
9 at Nanking, and he said that criminal acts such as
10 rape and looting occurred in the past -- some-
11 time in the past. Therefore he said that more
12 caution should be exercised so that those incidents
13 would not happen again.

14 Q You state in your affidavit: "After entry
15 into Nanking unlawful acts were committed by
16 Japanese troops."

17 Q What was the type of these acts?

18 A After the entry of the troops into Nanking
19 various incidents happened, including cases of
20 looting, rape, and so forth, and therefore he said
21 that troops -- the troops should be more careful
22 so that those incidents would not happen again.
23 Various incidents, including looting, rape, bur-
24 glary, and so forth, happened after entry into
25 Nanking.

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1 Q From whom did General MATSUI obtain his
2 information about these unlawful acts?

3 A As I recall, as I had been Chief of the
4 Legal Section, I had told him about the incidents
5 that had happened and therefore I believe that he
6 told me -- he gave me several instructions on the
7 matters I had reported to him; but on other
8 matters I don't know.

9 THE MONITOR: However, I am not positive
10 about where he received his information from. I
11 believe it might have been from this -- reports
12 I made to him regarding the criminal acts in the
13 past, but I am not sure.

14 Q When did you tell General MATSUI of the
15 criminal acts committed by his soldiers in Nanking?

16 A I don't think that I reported to him on
17 that matter at the time of the entry of the Japanese
18 troops into Nanking. However, I do believe that --
19 I do recall that I had told him about that before
20 that time, that is, the time of the entry of the
21 Japanese troops into Nanking.

22 THE MONITOR: "About that" meaning about
23 various unlawful acts.

24 Q In addition to the information which you
25 gave to General MATSUI concerning the unlawful acts

1 of the Japanese troops in Nanking, did not the
2 Japanese consul at Nanking give him information on
3 that subject?

4 A I don't know about that point either.

5 Q Is it not a fact that General MATSUI
6 learned almost as soon as he entered Nanking that
7 his troops had committed outrages in Nanking and
8 that this information was given him by Japanese
9 diplomats and the consul at Nanking?

10 A I don't know about that point.

11 MR. SUTTON: This question is based upon
12 the interrogation of General MATSUI, introduced as
13 exhibit 257, at page 3453 of the transcript of the
14 record.

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1 Q You state in paragraph 8 of your affidavit
2 that many of the cases you tried took place in the
3 refugee quarters in Nanking. Were these operated by
4 the International Committee for the Nanking Safety Zone?

5 THE MONITOR: Mr. Sutton, that portion is not
6 in the Japanese version of this affidavit.

7 THE PRESIDENT: It is there all right.

8 MR. SUTTON: It is the last sentence in the
9 English version of the affidavit, the last sentence
10 in paragraph 8.

11 THE MONITOR: Yes, it is in the English but
12 it isn't in the Japanese. We will translate your words
13 in our way. It isn't in the affidavit.

14 THE PRESIDENT: It is the last sentence of
15 paragraph 8.

16 A I believe it was so.

17 Q Did not this committee make almost daily reports
18 to the consular authorities in Nanking from 16 December
19 1937 to 2 February 1938?

20 A I don't know about it.

21 Q Did not these reports set out 425 groups of
22 cases, many containing more than thirty individual
23 cases, of crimes committed by Japanese troops in
24 Nanking during that period?

25 A I hadn't heard anything about that matter,

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1 nor have I seen anything -- nor do I have any know-
2 ledge of it.

3 MR. SUTTON: The examination is based upon
4 exhibit 323 which appears at page 4,536 of the trans-
5 cript of record.

6 Q Did not Mr. Raabe, the Chairman of the Inter-
7 national Committee for the Nanking Safety Zone, make
8 daily reports in person to the Japanese authorities in
9 Nanking as to the crimes committed by the soldiers in
10 the city?

11 A I haven't heard anything about that matter,
12 any such matter. However, I should like to be per-
13 mitted to say a few words on that matter now. Shall
14 I have that permission? May I have that permission?

15 THE PRESIDENT: What do you want, Mr. Sutton?

16 MR. SUTTON: I would prefer that you answer
17 my question.

18 Q Did not Dr. Smythe, the Secretary of the Inter-
19 National Committee for the Nanking Safety Zone, file
20 two protests nearly every day during the remainder of
21 December and the month of January, 1938, with the
22 Japanese consular service in Nanking?

23 A I haven't heard about such matter from anybody.

24 Q Did you know that Dr. Bates, Vice President
25 of the University of Nanking, almost daily for three

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1 weeks after the entry of Japanese troops into Nanking
2 delivered to the Japanese Embassy a typed report giving
3 a statement of the crimes of which he had knowledge
4 which had occurred the previous day?

5 A I have never heard anything about that fact.
6 We ignore completely those things.

7 THE INTERPRETER: Correction, please: This
8 is something we don't know at all about.

9 Q Did not Dr. Bates also hold frequent conversa-
10 tions with the consuls in Nanking, particularly with
11 Consul T. FUKUI, F-u-k-u-i, Vice-Consul TANAKA, and
12 FUJIDA, Takuyasu?

13 A I don't know.

14 Q Is it not a fact that these consular officials
15 continually promised that the situation in Nanking
16 would be corrected?

17 A I haven't knowledge of such a matter.

18 Q Did you know that HIDAKA, H-i-d-a-k-a, consul
19 of the Japanese Embassy, testified on yesterday that
20 the reports which were filed with the office at Nanking
21 were sent to the Army in Nanking?

22 A I don't remember whether such thing had
23 happened or not.

24 Q You don't know whether you heard of the
25 reports or whether the reports were sent?

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1 A I don't know anything about that particular
2 fact. I have not heard anything about it either.

3 Q Was it your duty to prosecute all crimes
4 committed by the Japanese soldiers in Nanking?

5 A It was not my duty.

6 Q What was your duty in connection with the
7 crimes?

8 A My duties were to answer questions pertaining
9 to the orders given by the commander in chief on legal
10 matters and to deal with criminal matters, cases,
11 which were transferred to me by the commanders of units,
12 including commanders of the military police.

13 Q Were you not chief of the Judicial Department?

14 A The Chief of the Judicial Department has not --
15 has no authority to make such a prosecution of a crime.

16 THE MONITOR: Has no immediate authority to
17 prosecute the crimes.

18 THE INTERPRETER: "Immediate responsibility,"
19 the witness said.

20 Q None of the crimes set out in these reports
21 concerning which I have asked you were ever brought to
22 your knowledge or attention, is that correct?

23 A It is correct, as you say.

24 Q Were there any other departments trying cases
25 against the soldiers in Nanking except your department?

TSUKAMOTO

CROSS

1 A Are you asking me whether there are any
2 other departments besides the Judicial Department
3 that dealt with those matters?

4 Q That is right.

5 A It was the branch of the military police which
6 was immediately subordinate to the commander in chief
7 which was responsible as a whole to deal with -- to
8 handle matters transferred to him by various commanders
9 of units.

10 THE MONITOR: Generally the commander of the
11 M.P. units, military police, which was directly under
12 the commanding general, or the commanders of other
13 units referred the criminal act to us, and then we
14 decided whether these criminals, law violators, were
15 to be indicted or not, and appropriate -- proper
16 measures were taken. That was the usual procedure.

17 Q Were the cases tried by your department?

18 A Yes.
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TSUKAMOTO

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1 Q Did your department have occasion to try any
2 case resulting from the burning of the YMCA Building
3 in Nanking?

4 A I don't remember exactly. However, I don't
5 think there was any such occasion.

6 MR. ITO: I object to that question because
7 the witness stated clearly in his affidavit that he
8 never handled a case of arson.

9 Q Did you learn that the Japanese soldiers had
10 burned the building of the Episcopal Mission in Nan-
11 king?

12 A No, I haven't heard it.

13 Q Was it brought to your attention that the
14 Japanese troops in Nanking, after the occupation of
15 that city, had burned the buildings of the Christian
16 Disciple Mission?

17 A No.

18 Q Were you informed of the burning of
19 church buildings and mission schools in various parts
20 of Nanking in December of 1937 after the occupation?

21 A I don't think I have ever heard about such a
22 matter, as I recall.

23 Q Did you make any investigation or prosecute
24 any case arising out of the burning of the Russian
25 Embassy by Japanese soldiers on 1 January 1938?

TSUKAMOTO

CROSS

1 A I have no recollection of such a matter at all.

2 Q With regard to the mass slaughter of criminals
3 mentioned in paragraph 8 of your affidavit, did you
4 learn that at one time 1500 refugees were taken from
5 the safety zone, tied together in groups of one hun-
6 dred, marched out, shot, and their bodies thrown into
7 a pond?

8 A I never heard of such a matter up to now. I
9 believe that it is possibly not true.

10 Mr. SUTTON: This examination is based upon
11 the testimony of Mr. Fitch and of Dr. Hsu which appears
12 transcript of the record 2566-67.

13 Q Did you make any investigation with regard to
14 more than one thousand Chinese civilians who on 16 Decem-
15 ber 1937 were marched out of the city to the banks
16 of the Yangtze river and shot by Japanese soldiers with
17 machine guns?

18 A No.

19 Mr. SUTTON: This question is based upon the
20 testimony of Mr. Magee which appears transcript of the
21 proceedings 3898.

22 Q Did you have occasion to investigate the case
23 of over thirteen hundred civilians taken from the
24 refugee camps on 15 December 1937, roped together,
25 marched off and shot?

TSUKAMOTO

CROSS

THE PRESIDENT: Mr. ITO.

Mr. ITO: I object to that question because in paragraph 8 of his affidavit witness states very definitely that he had no memory of having punished incendiaries or dealt with mass slaughter criminals.

THE PRESIDENT: I think you are only asking him to repeat what he says in paragraph 8. You can suggest to him that he had, but not by way of asking him to repeat what he has already said in his examination in chief.

Q And you received no information with regard to policemen taken on December 15th from the Judicial Yuan, marched out and shot?

A I don't think there was any such incident.

Q Did you advise the Japanese army that they were entitled to search out former soldiers of the Chinese army who had thrown away their arms, and shoot them?

A I don't think there was any such case.

Q Don't you know that this was being systematically done by parties commanded by Japanese officers?

A I never heard about that matter.

Q In view of the questions which I have asked you and the suggestions as to facts shown in the evidence, is it still your recollection that only ten cases were examined by you during the months of December

TSUKAMOTO

REDIRECT

1 1937 and January 1938?

2 A I don't think there is any relation whatsoever
3 between the reports according to the witness that you
4 have quoted and the cases which I actually handled
5 myself.

6 THE MONITOR: And the ten cases which I
7 actually handled myself.

8 MR. SUTTON: That concludes the cross-examination.

9 THE PRESIDENT: Mr. ITO.

10 MR. ITO: I should like to be permitted to
11 ask redirect questions.

12 REDIRECT EXAMINATION

13 BY MR. ITO:

14 Q The witness said awhile ago that you handled
15 about ten cases between December 1937 and January 1938.
16 By ten cases did you mean that those were ten cases
17 in which ten people were involved, or did you mean to
18 say that more people were involved in those ten cases?

19 A I did not mean by ten cases that one case
20 involves only one person. There are cases that a case
21 involves several people -- there were cases involving
22 several people. That means, naturally, that the number
23 of people involved was more than ten. Obviously, the
24 number of people were greater than the number of cases.
25

Q Were the cases which had been referred to you

TSUKAMOTO

REDIRECT

as unlawful tried and punished by you?

1 THE MONITOR: In other words, did you try all
2 the cases that came to your attention, or were referred
3 to you?

4 A Except a few cases which were not prosecuted,
5 I remember that most of them were tried and punished,
6 or dealt with.

7 Q Please state, if you remember, the approximate
8 number of criminals that you dealt with, that you tried
9 and punished during your tenure of office in Nanking.

10 A In connection with the cases I dealt with in
11 Nanking, what period do you mean; from what time to
12 what time? I would like to know that.

13 Q During what period did you serve in Nanking,
14 will you state it again?

15 A I remember that I was stationed at Nanking
16 from December 1937 to August 1938.

17 Q Then, please state the number of people that
18 you tried and punished during that particular period.

19 THE PRESIDENT: Don't answer.

20 MR. SUTTON: The prosecution objects to that
21 question as not having arisen out of the course of the
22 cross-examination.

23 THE PRESIDENT: Objection upheld.

24 MR. ITO: That is all, your Honor.
25

TSUKAMOTO

....

1 MR. LOGAN: May the witness be released on the
2 usual terms, your Honor?

3 THE PRESIDENT: The witness is excused on the
4 usual terms.

5 (Whereupon, the witness was excused.)

6 THE PRESIDENT: Mr. Logan.

7 MR. LOGAN: If the Tribunal please, may
8 KIKKAWA, Masaharu be called to the witness box?

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KIKKAWA

DIRECT

1 M A S A H A R U K I K K A W A, called as a witness
2 on behalf of the defense, being first duly sworn,
3 testified through Japanese interpreters as follows:

DIRECT EXAMINATION

4
5 BY MR. LOGAN:

6 MR. LOGAN: May the witness be shown defense
7 document No. 328.

8 (Whereupon, a document was handed to
9 the witness.)

10 Q Mr. KIKKAWA, will you examine that document
11 and tell us if it is your affidavit and if it has your
12 seal attached to it?

13 A This is my affidavit, and it is signed and
14 sealed.

15 Q Are the statements therein contained accurate
16 and true?

17 A Yes.

18 MR. LOGAN: I offer in evidence defense docu-
19 ment No. 328.

20 THE PRESIDENT: Admitted on the usual terms.

21 CLERK OF THE COURT: Defense document 328 will
22 receive exhibit No. 2549.

23 (Whereupon, the document above referred
24 to was marked defense exhibit No. 2549 and
25 received in evidence.)

KIKKAWA

DIRECT

1 MR. LOGAN: I will now read defense docu-
2 ment 328, being exhibit 2549. I shall skip the
3 first two paragraphs and start with the third para-
4 graph on page 2.

5 "From August to the end of October of
6 1938, I served as a company commander in the 23rd
7 Infantry Regiment of the 6th Division and in the
8 battle for the capture of Hankow led the vanguard
9 entering the city. So, I shall relate the circum-
10 stances of those several days at the time of entry
11 into Hankow.

12 "The greatest of all the battles for reducing
13 Hankow was the encounter in the area of the Tapien
14 Mountains. The others were all battles of chasing
15 the enemy. The last encounter we had was with about
16 three thousand of the enemy at Hwang-pei northeast of
17 Hankow. And after spending four days in advancing
18 the remaining 30 ri (TN: about 70 miles) we made a
19 triumphal entry into the city of Hankow. We kept
20 advancing the approximate distance of 30 ri without
21 a single enemy soldier resisting us.

22 "When we came near Tsaichiashan to the north
23 of Hankow, we found a broad expanse of water caused
24 by the breaking open of the Chang-kung banks by the
25 retreating enemy. And again since the bridge had been

KIKAWA

DIRECT

1 destroyed we were obliged to cross the river after
2 great difficulty. Moreover since the number of boats
3 were but a few a great deal of time was spent on
4 this.

5 "The 2nd battalion of our regiment had been
6 at the head of the advance but the 3rd battalion
7 crossed the river first, next the 2nd, and then the
8 1st battalion, in that order. In this manner we
9 entered the city of Hankow on the third day. And in
10 consideration of the foreign settlements in the city,
11 we had a foreigner guide us into the city. Full
12 attention was paid in order not to be looked down
13 upon by the foreigners. All the troops in clean
14 uniform and in regular ranks marched orderly into the
15 city, while many foreigners lined up on both sides
16 of the street to witness the spectacle.

17 "Immediately after the entry, we went to our
18 assigned billets. We felt tired but relieved with
19 the end of these long succession of battles. The
20 triumphal entry into Hankow was, therefore, carried
21 out in perfect peace and order. This was October 26,
22 1938.

23 "As a consequence, I believe that the troops
24 who entered the city in this manner could not have
25 committed violence or any other questionable deeds.

KIKKAWA

DIRECT

1 "On the occasion of the capture of Hankow,
2 there were orders from Division Headquarters that all
3 troops maintain strict military discipline and to
4 punish severely anyone taking an independent action
5 contrary to the orders. In this way, no incident
6 worthy of criticism occurred. The occupation of
7 Hankow was carried out in a truly exemplary manner
8 and I firmly believe that violence, plunder, and the
9 like absolutely did not occur.

10 "At the time of our entry, the foreign resi-
11 dential quarters were bright with electric lights and
12 absolutely no damage was found in the city outside of
13 the Japanese settlement which had been set on fire by
14 the enemy. And since the Japanese air forces had not
15 bombed the city limits at all, there was not even the
16 slightest damage in the city except those in the
17 Japanese settlement."

18 Your witness.

19 THE PRESIDENT: Brigadier Quilliam.

20 BRIGADIER QUILLIAM: May it please the
21 Tribunal, the prosecution does not desire to cross-
22 examine.

23 MR. LOGAN: May the witness be released on
24 the usual terms?

25 THE PRESIDENT: He is released accordingly.

YOSHIKAWA

DIRECT

1 (Whereupon, the witness was excused.)

2 MR. LOGAN: I am sorry, your Honor, one of
3 the other defense counsel picked up my documents that
4 were here. We will have to get them.

5 I ask that the witness YOSHIKAWA, Genzo, be
6 called.

7 - - - -

8 G E N Z O Y O S H I K A W A, called as a witness
9 on behalf of the defense, being first duly
10 sworn, testified through Japanese interpreters
11 as follows:

12 DIRECT EXAMINATION

13 BY MR. LOGAN:

14 Q What is your name and address?

15 A My name, YOSHIKAWA, Genzo. My address,
16 43 Asozu-mura, To Haku-gun, Tottori Prefecture.

17 Q May the witness be shown defense document
18 No. 1435.

19 (Whereupon, a document was handed to
20 the witness.)

21 Will you examine that and tell us if that is
22 your affidavit and whether that is your seal attached
23 to it?

24 A This is my affidavit, and my seal is affixed.

25 Q Are the statements contained in that

YOSHIKAWA

DIRECT

1 affidavit accurate and true?

2 A Yes.

3 MR. LOGAN: I offer in evidence defense
4 document No. 1435.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Defense document 1435
7 will receive exhibit No. 2550.

8 (Whereupon, the document above
9 referred to was marked defense exhibit
10 No. 2550 and received in evidence.)

11 MR. LOGAN: I shall now read defense docu-
12 ment No. 1435, exhibit 2550, commencing with the
13 second paragraph.

14 "As for my brief personal history, I
15 graduated from the Military Officers Academy and
16 from the Army War College. During the Hankow campaign,
17 I was in charge of the rear staff members of the 6th
18 Division, and at the termination of the war, I held
19 the rank of lieutenant colonel.

20 "I went to the locality after Nanking was
21 captured for the preparation of operations that
22 followed. The 6th Division commenced its attack on
23 Hankow around October 20, 1938 and closed in on the
24 city after breaking through Huangpo without much
25 difficulty. However, at Taichiashan, in the northern

YOSHIKAWA

DIRECT

1 direction of Hankow, because the Chinese destroyed
2 the embankment of the river, the areas was flooded
3 and it became necessary to utilize boats to cross the
4 flooded area. In addition since there were only a
5 few boats available a considerable time was spent,
6 and the troops that advanced to this point were com-
7 pelled to stop in this area. Hankow was to be reached
8 only by crossing this flooded area. Since a strict
9 order on military discipline was previously issued
10 by HATA, the Commander, it was printed on leaflets and
11 distributed among the troops. This was written on
12 the troops' attitude towards the Chinese residents, as
13 well as on what precautions the troops should take
14 within the city: It warned the troops to strictly
15 observe military discipline and to prevent any dis-
16 orders in the city.

17 "Thus, we were to enter Hankow with every
18 precautions. After crossing the flooded area no
19 fighting had occurred in the outskirts of the city,
20 and we entered Hankow in a peaceful manner. Since we
21 decided that to give the honour of being the first to
22 enter Hankow to advance unit alone was not such a good
23 idea, we got in touch with Brigade Commander USHIJIMA
24 and allowed SANO Regiment (23rd Regiment) as well as a
25 part of the 45th Regiment to enter at the same time.

YOSHIKAWA

DIRECT

1 "The above being the situation, it is incor-
2 ceivable that the Japanese Army could have committed
3 assaults, looting, rapes, and other brutal acts.
4 I have never seen such acts, never heard of such
5 rumors, and never received any reports of such
6 atrocities."

7 Your witness.

8 THE PRESIDENT: Brigadier Quillian.

9 BRIGADIER QUILLIAM: May it please the
10 Tribunal, the prosecution does not wish to cross-
11 examine.

12 MR. LOGAN: May the witness be released on
13 the usual terms?

14 THE PRESIDENT: He is released accordingly.

15 (Whereupon, the witness was excused.)

16 MR. LOGAN: May the witness YOSHIBASHI,
17 Kaizo, be called.

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YOSHIBASHI

DIRECT

1 K A I Z O Y O S H I B A S H I, called as a
2 witness on behalf of the defense, being
3 first duly sworn, testified through Japanese
4 interpreters as follows:

DIRECT EXAMINATION

BY MR. LOGAN:

Q What is your name and address?

8 A My name is YOSHIBASHI, Kaizo. My address is
9 Chiyoda-ku, Kioi-cho, No. 4.

10 Q May the witness be shown defense document
11 No. 291.

12 (Whereupon, a document was handed
13 to the witness.)

14 Will you examine that document and tell us
15 if it is your affidavit, and whether or not that is
16 your seal attached to it?

A It is my affidavit, and I see my seal on it.

18 Q Are the statements contained in that affi-
19 davit true and accurate?

A Yes, they are true and correct.

21 MR. LOGAN: I offer in evidence defense
22 document No. 291.

THE PRESIDENT: Admitted on the usual terms.

24 CLERK OF THE COURT: Defense document 291
25 will receive exhibit No. 2551.

YOSHIBASHI

DIRECT

1 (Whereupon, the document above
2 referred to was marked defense exhibit
3 No. 2551 and received in evidence.)

4 THE PRESIDENT: We will recess for fifteen
5 minutes.

6 (Whereupon, at 1445, a recess was
7 taken until 1500, after which the proceedings
8 were resumed as follows:)

YOSHIBASHI

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Logan.

4 MR. LOGAN: If your Honor please, I shall
5 now read defense document 291, being exhibit 2551,
6 commencing with the third sentence in paragraph 2,
7 omitting the formal parts:

8 "From October in 1938 till August 1939
9 was posted mainly at Hankow. In November 1938 was
10 appointed Staff Officer to the 11th Army and then
11 instructor at the Military Staff College. In October
12 1940 was appointed Staff Officer to the Expeditionary
13 Forces to China. After October 1941 was appointed
14 instructor of the Military Staff College and then
15 Aide-de-camp to His Majesty.

16 "3. At the time of the attack upon Hankow,
17 I was a captain and was attached to the staff of the
18 Second Army. I crossed the Tapieh Mountains together
19 with the 16th Division. On October 25, 1938, a part
20 of the 6th Division advanced into Hankow, and the
21 Japanese forces occupied the whole city on October 27.

22 "I was directed by telegram on October 25
23 to assist Staff Officer ODAIRA in making preparations
24 for the entry of our forces into Hankow. I met Staff
25 Officer ODAIRA at Sungfow, and in the afternoon of

1 October 29th entered Hankow from Tsaichiashan,
2 about 6 kilometers northeast of Hankow. At that
3 time, the outer Changkung bank was overflowing.
4 Crossing it, I went to the Headquarters of the 6th
5 Division which was then located at the Chianghan
6 Middle School, where I met Commander of the same
7 division Lieutenant-General INABA, who informed me
8 of the details of the entry of our troops into Han-
9 kow. Moreover, I closely inspected the city and its
10 vicinity.

11 "And I made sure that our troops entered
12 Hankow peacefully without carrying out any hostile
13 actions, and that no trouble such as looting, violence,
14 rape or bloodshed occurred on the part of our soldiers.
15 When I came to Hankow, the city was, needless to say,
16 in a peaceful state and not a single shot was heard.

17 "When our entry took place, only a minor
18 unit, short of a regiment, which was selected from
19 among the 6th Division was admitted into the city area
20 for purposes of defense, by order of the army commander
21 and the rest were all prohibited from entering within
22 10 kilometers of Hankow.

23 "The naval forces coming up the Yangtze
24 River arrived in Hankow at the same time as the Army.
25 Just then the Army troops which came up the same river

1 also reached there. But all of them were prohibited
2 from landing, and the river was crowded with our ships
3 full of soldiers. Entering Hankow in the afternoon
4 of 29th I walked about every quarter in and around
5 the city, but I never sighted any corpses. As I
6 stayed in Hankow from that time till August of the
7 following year, I frequently inspected various parts
8 of the city. And, it never failed to occur to me
9 that if the enemy had offered us serious resistance,
10 it would have been considerably difficult for us to
11 capture the so-called 'three strongholds of Wuhan,'
12 and so it was very fortunate for our forces that the
13 enemy had no idea of resisting us.

14 "4. Our Army Commander had issued very
15 strict order concerning military discipline. On the
16 other hand, our army authorities made every effort
17 to establish recreation centers in order to prevent,
18 positively, the occurrence of vicious crimes, and you
19 can imagine how surprised I was at the sight of the
20 Japanese female recreation corps which came up the
21 Yangtze River to Hankow as early as November 1. By
22 such means, while our army authorities strictly
23 punished the offenders against military disciplines,
24 they were never too careful in installing such facilities.
25

"At the time of our entry into Hankow the

1 city was guarded by a minor unit under the command
2 of Major General USHIJIMA, Mitsuru of the Six Division
3 as stated above. But as the Sixth Division moved
4 southwards to attack Yo-chow, the Second Army was
5 ordered to take their place. Our army authorities
6 allowed only a small number of units selected from
7 among each division to enter the city and made efforts
8 to maintain strict military discipline, to prevent
9 from being held in contempt by foreign nationals.
10 The main body of the army was directed to stay in the
11 suburbs and was prohibited from entering the city.
12 French residents in the French Concession appreciated
13 us because they were well conscious of the fact that
14 disciplines were being strictly maintained by the
15 Japanese forces. When the guarding unit of the 13th
16 Division were ordered on November 3 to be quartered
17 at dirty buildings in the outskirts of Hankow, because
18 our troops were banned from entering the city, an
19 adjutant of the corps came along and stormed at me in
20 excitement. 'Such treatment is an insult to the army.'
21 However, I could not allow them to enter the city on
22 account of the order. After the occupation of Hankow,
23 our army authorities clearly divided the areas into
24 that for use of Japanese forces, the one for joint use
25 by the Japanese and the Chinese and that to accommodate

YOSHIBASHI

DIRECT

1 refugees. And for the Chinese residents in the
2 Japanese-Chinese joint area our Special Service
3 authorities issued certificates of residence, which
4 were given to them to avoid trouble. At any rate,
5 the most close precautions and strict supervision
6 were exercised, to prevent our soldiers from committing any outrageous acts. Therefore, I affirm here
7 that such scandals as murders and rape of the
8 Chinese people never occurred in Hankow.
9

10 "After the capture of Hankow, however, we
11 were greatly worried by fires caused by the Chinese
12 Plain Clothes Corps which somehow made their way into
13 the city."

14 Your witness.

15 THE PRESIDENT: Brigadier Quilliam.

16 BRIGADIER QUILLIAM: May it please the
17 Tribunal, the prosecution does not wish to cross-
18 examine.

19 MR. LOGAN: May the witness be released on
20 the usual terms?

21 THE PRESIDENT: He is released accordingly.

22 (Whereupon, the witness was excused.)

23 MR. LOGAN: May we have SAITO, Torao called
24 to the witness stand?
25

SAITO

DIRECT

1 T O R A O S A I T O, called as a witness on behalf
2 of the defense, being first duly sworn, testified
3 through Japanese interpreters as follows:

DIRECT EXAMINATION

BY MR. LOGAN:

Q What is your name and address?

7 A SAITO, Torao; age, 46; residence, 142
8 Sanya-cho, Meguro-ku, Tokyo.

9 MR. LOGAN: May the witness be shown
10 defense document 924.

11 Q Will you examine that document and tell us
12 if it is your affidavit and has your seal attached
13 to it?

A Yes, this is my affidavit.

15 Q Are the statements contained therein accurate
16 and true?

A I am convinced they are true.

18 MR. LOGAN: I offer in evidence defense
19 document No. 924.

THE PRESIDENT: Admitted on the usual terms.

21 CLERK OF THE COURT: Defense document 924
22 will receive exhibit No. 2552.

23 (Whereupon, the document above
24 referred to was marked defense document
25 No. 2552 and received in evidence.)

SAITO

DIRECT

1 MR. LOGAN: I now read defense document
2 No. 924, being exhibit No. 2552, skipping the formal
3 parts, commencing with the second paragraph on page 1:

4 "2. Regarding my personal history, I
5 graduated in March, 1930, from the Architecture
6 Department, Waseda University, and was employed in
7 July 1930 by the Asahi Shimbun Office. I am at
8 present a member of the editorial staff of the Asahi
9 Shimbun. At the time of the attack on Hankow I was a
10 social reporter of the Asahi.

11 "3. On the morning of October 25, 1938,
12 by order of the Asahi Shimbun I flew from Kiukiang
13 over Hankow in naval reconnaissance plane at an
14 altitude of 30 meters. At that time the Japanese
15 forces had not yet invaded to the city of Hankow.
16 While flying over the North Station our plane was
17 fixed upon by the enemy. I saw Japanese troops in
18 the outskirts of Hankow marching toward the city. I
19 also saw Japanese warships on the Yangtze River
20 approaching Hankow.

21 "On the 28th of the same month I again
22 entered Hankow by plane and stayed in the naval corps
23 billet there. At that time I saw a large number of
24 ships on the river."

25 Your witness.

SAITO

1 THE PRESIDENT: Brigadier Quilliam.

2 BRIGADIER QUILLIAM: May it please the
3 Tribunal, the prosecution does not wish to cross-
4 examine.

5 MR. LOGAN: May the witness be released
6 on the usual terms?

7 THE PRESIDENT: He is released accordingly.

8 (Whereupon, the witness was excused.)
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OHKI

DIRECT

1 MR. LOGAN: May the witness, OHKI,
2 Eiichi, be called.

3 - - -

4 E I I C H I O H K I, called as a witness on
5 behalf of the defense, being first duly
6 sworn, testified through Japanese inter-
7 preters as follows:

8 DIRECT EXAMINATION

9 BY MR. LOGAN:

10 Q What is your name and address?

11 A My name is OHKI, Eiichi. My address is
12 741 Amanuma 3 Chome, Suginami-ku, Tokyo.

13 MR. LOGAN: May the witness be shown
14 defense document No. 958.

15 Q Will you examine that document and tell
16 us if it is your affidavit, and if that is your
17 seal attached to it?

18 A That is my affidavit without mistake.

19 Q Are the statements contained in that
20 affidavit accurate and true?

21 A Yes.

22 MR. LOGAN: I offer in evidence defense
23 document No. 958.

24 THE PRESIDENT: Admitted on the usual
25 terms.

OHKI

DIRECT

1 CLERK OF THE COURT: Defense document 958
2 will receive exhibit No. 2553.

3 (Whereupon, the document above
4 referred to was marked defense exhibit
5 No. 2553 and received in evidence.)

6 MR. LOGAN: I will now read defense
7 document 958, being exhibit 2553, commencing with
8 the second paragraph, "Personal History."

9 "I graduated from the Photography
10 course of the Tokyo Higher Polytechnic School
11 in March, 1932.

12 "Immediately after my graduation, I
13 was employed by the Tokyo Asahi Shinbun-sha
14 (The Tokyo Asahi Press). Since that time I have
15 been in the Photography section. I am now the
16 Vice-chief of the Photograph Printing Section
17 of the same newspaper.

18 "3) By order of the company, I took
19 part in the attack on Hankow as a war correspondent.
20 On October 24, 1938, I advanced from Hwangpo, on
21 the outskirts of Hankow with a tank unit. Our
22 tanks made their way in the midst of retreating
23 enemy soldiers. The tanks hurried to enter
24 Hankow paying no attention to enemy troops left
25 behind. However, when we reached this side of the

OHKI

DIRECT

1 Changkung embankment, we found the area flooded.
2 Our units, therefore, ceased to advance and began
3 to fire mountain guns and field pieces on enemy
4 pill-boxes constructed on the side of Tsaichia-shan.
5 The attack drove the enemy farther back.

6 "At that time many columns of rising
7 smoke caused by explosions could be seen in the
8 direction of Hankow. They were from the Japanese
9 concession in Hankow which was blown up by the
10 enemy in retreat. I was able to cross the river
11 that night with a unit that was crossing. After
12 passing through a village we reached one end of
13 the city of Hankow.

14 "I saw very few Japanese soldiers in
15 the city who had preceded us. I passed that
16 night on the outskirts of the city. On the
17 following morning, that is, August 26, it stopped
18 raining. Staff officer AKAGI told us that the
19 enemy had already escaped, and that since we were
20 expected to enter Hankow formally, we should tidy
21 ourselves up. We correspondents of the Asahi,
22 Mainichi, Yomiuri, Domei, etc., entered the city
23 in a body, escorted on both sides by the soldiers
24 of a platoon. When we arrived at the North Sta-
25 tion, we met with a few machine gun shots fired

OHKI

DIRECT

1 by remaining enemy troops. This enemy remnants
2 was the last gun report that we heard. The units
3 that crossed the river marched forward in columns.
4 About noon, we arrived at the Japanese concession,
5 which was in flames. Proceeding to the right from
6 the demolished Japanese Consulate, we came to the
7 wooden fence of the Italian concession. While we
8 were hesitating as to whether or not we should
9 advance farther, a French missionary Father Jakino
10 (phonetic translation) appeared and acted as a
11 guide for the Japanese units. Since I could speak
12 both languages, I acted as interpreter in a con-
13 versation between the Staff Officer AKAGI and the
14 missionary. At that time, there were also a
15 German officer and two foreign women there. Staff
16 Officer AKAGI instructed the Japanese soldiers,
17 who were to be guided by the missionary, to re-
18 adjust their uniform and to march four abreast in
19 perfect order. While we were passing through the
20 streets, we saw many residents peeping at us from
21 their houses or tearing anti-Japanese posters from
22 their walls. No dead were seen along the way.

23 "In the meanwhile, the Japanese Navy
24 cruiser 'Yaeyama' sailed up to the city, followed
25 by many small craft. Up until that time there had

OHKI

DIRECT

1 been almost no ships in the river, save a vessel
2 which seemed to be an American gunboat. The navy
3 forces entered Hankow about an hour later than the
4 army forces, and the two groups exchanged greetings
5 at a school called the Meiji Primary School.

6 "In the city of Hankow, the water front
7 area was allotted to the Navy, while the area on
8 the opposite side of the road was made the Army
9 zone. Most of the army forces were stationed in
10 the suburbs, and only a few soldiers were allowed
11 to come into the city. Headquarters of the division
12 was located in a suburban middle school. The vacant
13 land behind the customs house on the water front
14 area was allotted to refugees, but the water front
15 area itself was guarded by Japanese soldiers and
16 not even armed soldiers, not to speak of us war-
17 correspondents, were allowed to go into the area
18 where the consulates stood. When we entered the
19 city on October 25th there were almost no vessels
20 in the Yangtze River, since the water had receded
21 about 200 yards the bank. However, on October 26th,
22 the river swarmed with vessels. The navy also pro-
23 hibited its sailors to land, and there were many
24 ships of the navy in the river. Many Chinese
25 refugees were seen on board the ships flying flags

OHKI

DIRECT

1 of Britain, the U. S. A., France, etc. Imme-
2 diately before the fall of Hankow, there were
3 almost no vessels in the Yangtze River, near the
4 city, but after the fall many ships congregated
5 there. The reason for this was that persons on
6 the ships, fearing at first the Japanese troops,
7 fled but returned after learning that the Japanese
8 would do them no harm.

9 "I swear that the rumor that Japanese
10 soldiers slaughtered Chinese war prisoners and
11 threw them into the river is entirely groundless.
12 Actually, it was so calm on October 26 and 27
13 that not even the report of a gun was heard. The
14 Japanese soldiers who entered the city were very
15 few in number. In addition, since they were very
16 busy with guard duty and with arrangements for
17 their billets and belongings, they had not time
18 enough to go out. Besides, their going out was
19 forbidden as much as possible by official policy.

20 "Only the Japanese concession was de-
21 stroyed by fire. All other parts of the city
22 remained safe. Consequently, the whole city,
23 including the concessions, began to get crowded
24 as early as October 28th."

25 Your witness.

OHKI
OGAWA

DIRECT

1 THE PRESIDENT: Brigadier Quilliam.

2 BRIGADIER QUILLIAM: May it please the
3 Tribunal, the prosecution does not desire to cross-
4 examine.

5 MR. LOGAN: May the witness be released
6 on the usual terms.

7 THE PRESIDENT: He is released accord-
8 ingly.

9 (Whereupon, the witness was
10 excused.)

11 MR. LOGAN: May the witness OGAWA,
12 Saburo, be summoned to the witness box.

13 - - -

14 S A B U R A O G A W A, called as a witness on
15 behalf of the defense, being first duly
16 sworn, testified through Japanese inter-
17 preters as follows:

18 DIRECT EXAMINATION

19 BY MR. LOGAN:

20 Q What is your name and address?

21 A Name, OGAWA, Saburo; residence, 32
22 Konodai, Ichikawa City, Chiba Prefecture.

23 Q Will you examine defense document 920,
24 which is being handed to you, and tell us whether
25 that is your affidavit and your seal affixed thereto?

OGAWA

DIRECT

1 A This is my affidavit.

2 Q Are the statements contained in that
3 affidavit accurate and true?

4 A Yes.

5 MR. LOGAN: I offer in evidence defense
6 document No. 920.

7 THE PRESIDENT: Admitted on the usual
8 terms.

9 CLERK OF THE COURT: Defense document
10 920 will receive exhibit No. 2554.

11 (Whereupon, the document above
12 referred to was marked defense exhibit
13 No. 2554 and received in evidence.)
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OGAWA

DIRECT

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1 MR. LOGAN: I will now read defense
2 document No. 920, being exhibit No. 2554, eli-
3 minating the first paragraph:

4 "I became an employee of the Tokyo Asahi
5 Press in April 1928 and have been in the service
6 of the same company until the present time. At
7 the time of the attack on Hankow I was with the
8 Photography Section of the ~~same~~ newspaper.

9 "Under company orders, I, as a member
10 of the Photography Section of the Tokyo Asahi
11 Newspaper, sailed aboard a gunboat up the Yangtze
12 River from Kiukiang to Kotienchen, with the in-
13 tention of joining the TAKASHIMA Unit for the
14 purpose of photographing actual scenes of the
15 attack on Hankow. However, when I happened to
16 meet the HIRATA Unit of the Formosan Army on the
17 evening of October 24, 1938, I joined it and pro-
18 ceeded with it to Wuchang, arriving on October 25.
19 Passing through Hanyang, we reached Hankow on
20 the 26th. At that time the Hanshui River, a tribu-
21 tary of the Yangtze, was so crowded with vessels
22 of all sizes that it was impossible for us to come
23 directly alongside the bank. We, consequently,
24 had to walk across a number of ships to go ashore.

25 "Since I thought that the Japanese troops
had already completely occupied Hankow, I entered

1 the city immediately. However, since I found no
2 Japanese soldiers and since the city was almost
3 completely deserted, I immediately returned to
4 Wucheng, again going by way of Hanyang.

5 "On October 28, I again went from Wuchang
6 to Hankow. At that time a great number of vessels
7 were already at anchor on the river, so that upon
8 landing I could not go directly ashore, but had
9 to walk across thirty or forty vessels anchored
10 side by side in order to reach the pier. The city had
11 already been restored to its former prosperous
12 condition and I was able to go to a restaurant
13 as soon as I went ashore. The streets were quite
14 as tranquil as in peacetime.

15 "I stayed in Hankow until November 1,
16 and during that period conditions in the city
17 completely returned to normalcy. On November 2,
18 I left Hankow for Yochow, with the Sixth Division."

19 Your witness.
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OGAWA
IKEDA

DIRECT

21,610

1 THE PRESIDENT: Brigadier Quilliam.

2 BRIGADIER QUILLIAM: May it please the Tri-
3 bunal, the prosecution does not desire to cross-
4 examine.

5 MR. LOGAN: May the witness be released on
6 the usual terms?

7 THE PRESIDENT: He is released accordingly.

8 (Whereupon, the witness was ex-
9 cused.)

10 - - -

11 MR. LOGAN: I ask that the witness IKEDA,
12 Ryuzaburo be called.

13 - - -

14 R Y U Z A B U R O I K E D A, called as a witness
15 on behalf of the defense, being first duly sworn,
16 testified through Japanese interpreters as
17 follows:

18 DIRECT EXAMINATION

19 BY MR. LOGAN:

20 Q What is your name and address?

21 A Name, IKEDA, Ryuzaburo; address, 2 chome,
22 Ogi no, Suginamiku.

23 Q Will you examine document 1142 which is being
24 handed to you and tell us if that is your affidavit
25 and if that is your name and seal affixed thereto?

IKEDA

DIRECT

21,611

1 (Whereupon, a document was handed
2 to the witness.)

3 A There is no mistake.

4 Q Are the statements contained in that affi-
5 davit accurate and true?

6 A They are true.

7 MR. LOGAN: I offer in evidence defense docu-
8 ment 1142.

9 THE PRESIDENT: Admitted on the usual terms.

10 CLERK OF THE COURT: Defense document 1142
11 will receive exhibit No. 2555.

12 (Whereupon, the document above re-
13 ferred to was marked defense exhibit 2555
14 and received in evidence.)

15 MR. LOGAN: I will now read defense document
16 1142, being exhibit 2555, commencing with the second
17 paragraph:
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1 "In July 1938 I was appointed Commander
2 of the First Lines of Communications of the 4th
3 Division (I was then a Colonel), in which capacity
4 I participated in the Attack of Wuhan. After the
5 fall of Hankow I stayed at Hankow until March 1940.

6 "First, I landed at Anking, and assumed
7 the responsibility of supplying the Second Army,
8 then by the order of General HATA, Commander of
9 the Japanese Army in Central China, I left Anking
10 for Chinkiang where I made liaison with the head-
11 quarters of the above Army, and received detailed
12 instructions regarding the actual measures to be
13 taken to protect foreign rights and the person and
14 property of the Chinese at Hankow during the coming
15 attack on that city. I then embarked for the same
16 city and arrived there on November 2, of the same
17 year, after the fall of that city.

18 "When I arrived at Hankow there were two
19 gun-boats of foreign nationality lying at anchor
20 on the Yangtze (They flew the flags of a third
21 power), and more than 1,000 ships and boats (junks,
22 etc) were found on the river. It seemed that there
23 was no damage nor change in the roads along the
24 river. After our landing we established the L of
25 C headquarters at the branch office of the MITSUI
~~BUSSAN Company, and managed the business regarding~~

1 "In July 1938 I was appointed Commander
2 of the First Lines of Communications of the 4th
3 Division (I was then a Colonel), in which capacity
4 I participated in the Attack of Wuhan. After the
5 fall of Hankow I stayed at Hankow until March 1940.

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9 the Japanese Army in Central China, I left Anking
10 for Chinkiang where I made liaison with the head-
11 quarters of the above Army, and received detailed
12 instructions regarding the actual measures to be
13 taken to protect foreign rights and the person and
14 property of the Chinese at Hankow during the coming
15 attack on that city. I then embarked for the same
16 city and arrived there on November 2, of the same
17 year, after the fall of that city.

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19 gun-boats of foreign nationality lying at anchor
20 on the Yangtze (They flew the flags of a third
21 power), and more than 1,000 ships and boats (junks,
22 etc) were found on the river. It seemed that there
23 was no damage nor change in the roads along the
24 river. After our landing we established the L of
25 C headquarters at the branch office of the MITSUI
BUSSAN Company, and managed the business regarding

IKEDA

DIRECT

1 the billeting and supply of the army. Whenever
2 we purchased goods, we bought them directly from
3 the Chinese on reasonable terms, and the wage of
4 labourers was paid every day. We forbade the
5 soldiers to go directly to the Chinese to get
6 anything. Coolies necessary to the transportation
7 of goods were sometimes supplied through
8 a local body called the 'Junonji' Association.

9 "Besides, we provided for the comfort
10 of the people with the cooperation of the Special
11 Service Department. Picture-halls were opened
12 to the public and the entertainment meetings were
13 held frequently. Accordingly, we became very
14 popular with the people. The mayor of Hankow,
15 the President of the Peace Association, and other
16 persons representing the people came to me to express
17 their gratitude.

18 "Those surrendering from the Chinese Army
19 were also paid very well. We entertained them with
20 frequent feasts, sports and various meetings. So
21 that there was not one who tried to escape. They
22 even presented letters of gratitude to us.

23 "The conditions in Hankow at the time I
24 entered the city were such that, except that the
25 Japanese Concession had been burnt out, all quar-

1 ters, including the Foreign Concessions, were
2 quite calm. Of course, not a human corpse was
3 to be seen in the city. The conditions in the
4 Foreign Concessions were perfectly normal. The
5 other parts of the city also returned to their
6 former gaiety after a short interval. /nyhow, I
7 heard not a single gun-shot throughout my trip
8 to Hankow.

9 "Besides, the main body of the Japanese
10 forces were not ordered not to enter the city. Only
11 a small number of garrison troops were stationed
12 in the city.

13 "When I had the chance to see General
14 HATA, the Commander in Chief of the Central China
15 Expeditionary Forces, he told me earnestly to be
16 cautious and discreet in action so as to prevent
17 any possible complication in matters concerning
18 protection of the people and foreign affairs.
19 His prudence in action, as expressed his in-
20 structions stated above, was always to be admired.

21 "As to the arrangement policy of Hankow
22 city we endeavored according to the detailed di-
23 rectives from the Expeditionary Force Headquarters
24 to adopt sufficient measure for flood control,
25 sanitation, and so forth, to supply materials in

IKEDA

DIRECT

21,615

Hankow city as well as to maintain order. Everything was progressing ideally.

"During my stay in Hankow, a plan was presented to erect a memorial tower in Hankow for the Chinese soldiers who fell in battles. I then submitted my opinion that I thought it was better to erect the tower in the Chung-shan Park.

"Anyhow, I saw clearly with my eyes that the Chinese people entertained no bad feeling toward Japan. This fact proves that the Japanese did not commit any sort of violence."

Dated "this 11th day of April 1947, at Tokyo."

Your witness.

IKEDA
MIYAZAKI

DIRECT

THE PRESIDENT: Brigadier Quilliam.

1 BRIGADIER QUILLIAM: May it please the Tri-
2 bunal, the prosecution does not desire to cross-
3 examine.

4 MR. LOGAN: May the witness be released on
5 the usual terms?

6 THE PRESIDENT: He is released accordingly.

7 (Whereupon, the witness was ex-
8 cused.)

9 - - -

10 MR. LOGAN: I would like to call to the wit-
11 ness stand MIYAZAKI, Shuichi.

12 - - -

13 S H U I C H I M I Y A Z A K I, called as a witness
14 on behalf of the defense, being first duly sworn,
15 testified through Japanese interpreters as
16 follows:
17

18 DIRECT EXAMINATION

19 BY MR. LOGAN:

20 Q What is your name and address?

21 A MIYAZAKI, Shuichi; Nemoto, Chiba Prefecture,
22 Matsudo, 411.

23 Q Will you examine defense document No. 728,
24 which is now being handed to you, and tell us if that
25 is your affidavit and your signature and seal attached

MIYAZAKI

DIRECT

1 thereto?

2 (Whereupon, a document was handed
3 to the witness.)

4 A This is my affidavit. My seal and signa-
5 ture are affixed thereto.

6 Q Are the statements contained in that affi-
7 davit accurate and true?

8 A They are.

9 MR. LOGAN: I offer in evidence defense docu-
10 ment No. 728.

11 THE PRESIDENT: Admitted on the usual terms.

12 CLERK OF THE COURT: Defense document 728
13 will receive exhibit No. 2556.

14 (Whereupon, the document above re-
15 ferred to was marked defense exhibit No.
16 2556 and received in evidence.)

17 MR. LOGAN: I will now read defense document
18 728, being exhibit 2556, affidavit of MIYAZAKI,
19 Shuichi, commencing with paragraph three on page 2:
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1 "I was a staff officer of the 11th Army
2 under the command of Commander-in-Chief of the Cen-
3 tral China Expeditionary Forces, H.A.T., from July,
4 1938 to October, 1939, then served as Chief of Staff
5 of the 6th Area Army from August, 1944 to December,
6 1944 under the command of Commander-in-Chief of the
7 China Expeditionary Forces, H.A.T.

8 "First of all, since the Wuhan Operations was
9 the largest and most important of all operations for
10 the Central China Expeditionary Forces, great speed
11 was necessitated in its execution. Peace and order
12 in the area, however, was most carefully maintained,
13 while, various concrete measures were devised in order
14 to ensure safety for the lives and property of the
15 Chinese people in general to say nothing of the
16 rights and interests of foreign nationals in Wuhan.
17 This operation had but a purely military objective
18 of occupying the Wuhan Area, the military and politi-
19 cal center of Chiang Kai-shek's Regime after the loss
20 of Nanking to the Japanese, and was planned to crush
21 the some 150 Chinese divisions in mass defense in
22 the front lines of that area. Our main forces were
23 dispatched towards the Sing Yang, Hankow areas and
24 the Yo-Chow, Tungshan areas, and not sent directly
25 towards the Wuhan area. In the Wuhan area, not more

MIYAZAKI

DIRECT

1 than one-tenth of the total strength, a division and
2 a mixed brigade were dispatched. And in the capture
3 of Wuhan only a certain amount of heavy fighting was
4 done in the area advanced to by the large force de-
5 scribed in the previous sentence. The situation was
6 where one found the capture of Wuhan accomplished with
7 only a few troops picked out from the divisions dis-
8 patched to the Wuhan area with it as its objective.
9 When we approached the outskirts of Wuhan in the latter
10 part of October, 1938, the Chinese troops were in the
11 midst of disorderly flight and scarcely an enemy was
12 to be seen on all fronts. There was no fight worth
13 mentioning as a battle. Consequently, we can truly
14 say that there was no war damage whatsoever in the
15 Wuhan area. Again Japanese Air Operations, during the
16 campaign, did not exceed attacking Chinese field
17 troops, bombing enemy planes on Hankow Airfield, and,
18 in regards to the municipalities, there was absolute-
19 ly no bombing attack made. I was able to confirm
20 this fact upon inspecting the area personally follow-
21 ing the occupation, to be just so. Commander HATA
22 had given deep consideration regarding the actions of
23 military personnel required for the capture of Wuhan
24 and particularly with reference to the residents in
25 general buildings, installations, etc., outside the

MIYAZAKI

DIRECT

1 category of military objectives and ordered that they
2 were not damaged or destroyed. One example of this
3 is at the beginning of October of the same year,
4 Commander HATA issued orders to his subordinate com-
5 manding officers prescribed summary 'Restricted Acts'
6 in the capture of Wuhan,' together with a map minute-
7 ly indicating rights and interests of foreign nation-
8 als as well as important Chinese political and mili-
9 tary installations. He took scrupulous steps to pre-
10 vent violation of International Law and to prevent
11 occupation or destruction of installations other than
12 military.

13 "On 30 October, 1938, 3 days after the fall
14 of Wuhan, I sailed up the Yangtze River and went ashore
15 at Wuchang in the afternoon of the same day, and made
16 an inspection of the city and found all the residents
17 had completely taken refuge a few days previously
18 leaving not a shadow. I was not able to recognize
19 the slightest after traces of a battle. Two or three
20 days later (November 3rd), upon inspecting the cities
21 of Hankow and Hanyang, I was able to recognize that
22 the Chinese forces had intentionally blown up the
23 Japanese Concession, the Iron Works in Hanyang and
24 the Munition Plants in Wuchang before fleeing. In
25 the British, French, Russian Concessions and China-

MIYAZAKI

DIRECT

1 town there was no trace of a fire caused by combat.
2 The people were bustling, the shops were doing flour-
3 ishing business and at night electric lights were
4 shining brightly on the streets and alongside the
5 banks of the Yangtze. A few days after the occupa-
6 tion, however, a fire broke out in the warehouse
7 area along the shores of the Yangtze. This was done
8 by a straggler who had sneaked back in. At that time
9 there were many crafts of the third powers, large and
10 small, such as boats and lighters moored alongside
11 the Yangtze near the Hankow area and it left us in
12 no position to commit any illegal deeds such as rape,
13 manslaughter, etc., to any extent before them. Con-
14 sequently, no trace of destruction due to warfare was
15 noticeable in the city. It was also literally unimag-
16 inable that any slaughter to speak of could have taken
17 place in the streets and thereabouts. Actually, on
18 that 7th of November, ceremonial services for the
19 dead were held and quite elaborately. If this were
20 right after a massacre it couldn't have been done so
21 quickly nor so serenely.

22 "At the time, cholera was raging over Hankow
23 and many Chinese were dumping corpses into the
24 Yangtze River. In the lower streams of the Yangtze,
25 countless Japanese naval crafts were navigating

MIYAZAKI

DIRECT

21,622

1 about and since there are occasions in utilizing this
2 water and if cholera should break out among the Japan-
3 ese troops it would be a matter of grave concern so
4 great pains were taken to prohibit them from dumping
5 the cholera corpses into the Yangtze."

6 Dated "December 24, 1946."

7 You may examine.
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MIYAZAKI
MORIOKA

DIRECT

21,623

1 THE PRESIDENT: Brigadier Quilliam.

2 BRIGADIER QUILLIAM: May it please the Tri-
3 bunal, the prosecution does not wish to cross-
4 examine.

5 MR. LOGAN: May the witness be released on
6 the usual terms?

7 THE PRESIDENT: He is released accordingly.

8 (Whereupon, the witness was ex-
9 cused.)

10 - - -

11 MR. LOGAN: May the witness MORIOKA, Takashi
12 be called.

13 - - -

14 T A K A S H I M O R I O K A, recalled as a wit-
15 ness on behalf of the defense, having previ-
16 ously sworn, testified through Japanese inter-
17 preters as follows:

18 THE PRESIDENT: You are still on your oath.

19 DIRECT EXAMINATION

20 BY MR. LOGAN:

21 Q What is your name and address?

22 A My name is MORIOKA, Susumu; my address is
23 194 Nakanecho, Meguroku, Tokyo.

24 Q You have testified in this Tribunal before,
25 have you not?

A Yes, I have.

Q Will you examine defense document 1227 and tell us if that is your affidavit and if that is your name and seal affixed thereto?

(Whereupon, a document was handed to the witness.)

A This is my affidavit.

Q Are the statements contained in defense document 1227 accurate and true?

A They are.

MR. LOGAN: I offer in evidence defense document 1227.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Defense document 1227 will receive exhibit No. 2557.

(Whereupon, the document above referred to was marked defense exhibit No. 2557 and received in evidence.)

MR. LOGAN: I will now read defense document 1227, being exhibit 2557, the affidavit of MORIOKA, Takashi, commencing on page 2:

"I was attached to the Headquarters of the Central China Expeditionary Army in August, 1938. Military operations to capture Hankow were in progress, and Hankow was on the eve of fall at that time.

1 I was residing in Shanghai at that time. Preceding
2 my subordinates, I went by plane to the Headquarters
3 of the Army at Kiukiang. Unaccompanied, I boarded
4 a destroyer at Kiukiang and arrived at Hankow on
5 the evening of the 28th. I landed at the eastern end
6 of the Japanese settlement, a spot down the river
7 about a mile from the Customs House. The Japanese
8 settlement in Hankow city was for the most part
9 burnt down, and was very quiet, there being almost no
10 one to be seen on the streets. I was not permitted
11 to enter the French Settlement. After going around
12 the French settlement, I came to the Customs House.
13 Not a Japanese soldier was to be seen, except those
14 of the headquarters unit of the Japanese Military
15 Police stationed in the Ssuming Bank, because the
16 Japanese soldiers were not permitted to enter the
17 city; but were quartered on the outskirts of the city.
18 I was looking for quarters of Japanese soldiers with
19 the intention of lodging there. However, there were
20 neither Japanese soldiers nor their quarters. As
21 there was no alternative, I went to the wharf at the
22 Custom House. A ship named 'Midori Maru,' belonging
23 to the Shipping Transport Command, lay at anchor. I
24 shouted to the crew of the ship from the wharf. Then,
25 going to the ship, I asked for lodging there and ob-

1 tained their approval. I went on board the 'Midori-
2 Maru' some time after 8:00 p.m. on October 28th and
3 lodged there for six days, that is, until November
4 3. I spent all of my time on the ship except when
5 I went ashore on business in the daytime. At a dis-
6 tance of about thirty or forty from the 'Midori-
7 Maru,' a foreign ship lay at anchor. In addition,
8 there was a considerable number of Chinese junks
9 nearby. Down the river British and French gunboats
10 lay at anchor close to the river bank, and in the
11 offing there were Japanese destroyers. While I
12 lodged in the 'Midori-Maru,' the city of Hankow was
13 truly quiet. Never once did I hear the report of a
14 gun. Nor did I see a murder committed in the vicin-
15 ity of the wharf. The Customs House nearby the wharf
16 was used as the office of the Transport Headquarters,
17 from the window of which we had an unobstructed view
18 of the vicinity. Therefore, neither shot nor murder
19 could have occurred. After its occupation by the
20 Japanese Army, Hankow was divided distinctly into
21 two garrison areas, that is, that of the Army and
22 that of the Navy. At the time when Hankow was occu-
23 pied, most of the Yangtze Valley was placed under the
24 Navy's guard, and soldiers of the Army were not per-
25 mitted to enter that area. These garrison areas were